



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

21. Interlocutory Application (IBC)(Liq.)/32/2024
In C.P. (IB)/1792(MB)2018

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 07.08.2024

NAME OF THE PARTIES: - Shri Rajesh Ramesh Kamath Resolution
Professional for M/S. Kgepl Engineering
Solutions Private Limited
IN THE MATTER OF
Nangalwala Industries (p) Ltd.
V/s
Kgepl Engineering Solution Pvt Ltd.

Section: - 33(1) (b) (i) to (iii) r/w Sec 33(3) U/s 9 of the Insolvency and
Bankruptcy Code, 2016

ORDER

Interlocutory Application (IBC) (Liq.)/32/2024

Presence

Adv. Surekha Yadav a/w Adv. Avinash R Khanolkar Applicant.

Heard the submission of the counsel for the Applicant. The detailed order will follow vide separate order sheet.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)

JAGDISH

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)



IN THE NATIONAL COMPANY LAW TRIBUNAL,
COURT II, MUMBAI BENCH

I.A (IBC) (Liq.) 32 OF 2024

IN

CP (IB) NO. 1792/MB/2018

*Application u/s 33(2) of the Insolvency and
Bankruptcy Code, 2016.*

In the matter of:

Shri. Rajesh Ramesh Kamath

Resolution Professional for,

M/s. KGEPL Engineering Solutions Private
Limited

Residing at: 301, A Wing, Green Nagar, Near
Lokhandwala, Akurli Road, Kandivali East,
Mumbai -400101.

...Applicant

In the matter of

M/s. Nangalwala Industries(P)Limited

.... Operational Creditor

Versus

**M/s. KGEPL Engineering Solutions Private
Limited**

..... Corporate Debtor

Order pronounced on 07.08.2024.



IN THE NATIONAL COMPANY LAW TRIBUNAL,
COURT II, MUMBAI BENCH

I.A (IBC) (Liq.) 32 OF2024
IN
CP (IB) NO. 1792/MB/2018

Coram:

Shri. Kuldip Kumar Kareer : **Member Judicial.**

Shri. Anil Raj Chellan : **Member Technical.**

Appearance (in Physical Mode)

For the Applicant: Adv. Surekha Yadav a/w Adv. Avinash R Khanolkar

ORDER

Per: Coram

1. It is an application filed u/s 33(2) of the Insolvency and Bankruptcy Code, 2016 (“the Code”) by **Shri. Rajesh Ramesh Kamath**, Resolution Professional (RP) of M/s. KGEPL Engineering Solutions Private Limited (“the Corporate Debtor”) seeking liquidation order based on the resolution passed by the Committee of Creditors (CoC) in its 10th meeting held on 22.03.2024.
2. On perusal of this application, it emerges that Company Petition (IB) No. 1792 of 2018 u/s Section 9 of the IBC Code, 2016 was admitted by this Tribunal and Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor on 14.07.2023 and the Applicant herein was appointed as Interim Resolution Professional (IRP). The IRP published Form A issuing public announcement inviting claims from the Creditors of the Corporate Debtor and the same was published in newspapers on 19.07.2023, last date for submissions of the claim was 31.07.2023, but no claim was received.
3. The Applicant received 3 claims from Financial Creditors and 7 claims from Operational Creditors. In accordance with Regulation 12(2) of the CIRP Regulations, the Applicant considered and verified these claims after collation. Following verification, the Applicant prepared a List of Creditors and constituted a Committee of Creditors (CoC) for the Corporate Debtor as per the provisions of Section 21 of the Code.



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4. The Applicant convened the 1st meeting of the CoC on 16.08.2023 to confirm the appointment of the Applicant as the Resolution Professional in accordance with Section 22(3)(a).
5. Further the Applicant submits, continuing with the CIRP, the Applicant published a notice inviting an Expression of Interest (EoI) in Form G on 05.09.2023, with the deadline for submission set for 21.09.2023. However, only two responses were received. Based on the recommendation of the CoC to maximize responses, the Applicant published another notice on 26.09.2023, extending the submission deadline to 12.10.2023.
6. During this period, the Applicant received additional claims from three stakeholders of the Corporate Debtor-one Financial Creditor (a related party) and two Operational Creditors. Since the aggregate dues exceeded 10% of the total debt, the Applicant had to reconstitute the CoC.
7. Following the second EoI notice, the Applicant received two additional EoIs, bringing the total to four. After verifying the EoIs, the Applicant declared a Provisional List of Prospective Resolution Applicants (PRAs) on 14.10.2023. However, before the Final List could be declared, one PRA withdrew, leaving only three PRAs. The Applicant made Final List of PRAs on 29.10.2023.
8. In the 6th CoC meeting held on 14.11.2023, the CoC approved the IM, RFRP, and Evaluation Matrix as presented by the Applicant. The Applicant issued the Information Memorandum (IM), detailed Invitation for Expression of Interest, and Request for Resolution Plan (RFRP) to the PRAs on 18.10.2023.
9. The PRAs were asked to submit their final Resolution Plans by 21.11.2023. However, no Resolution Plans were received by the deadline, although two PRAs requested for an extension. The CoC passed a resolution to extend the deadline to 30.11.2023 for the submission of the final Resolution Plans.



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10. Despite the extension, no final Resolution Plans were received by the extended deadline. However, to the contrary, one entity, who did not provide any EoI in last two rounds, approached the Applicant and showed an interest in placing Resolution Plan but no official proposal had been put forth. After thorough discussions, the CoC decided that an extension of the statutory period of the CIRP should be pursued to maximize the value of the Corporate Debtor.
11. Accordingly, an application (bearing number 724/2024) was filed by the Applicant before the Hon'ble Bench on 03.01.2024. The application was allowed by an order dated 27.02.2024, extending the statutory period of the CIRP to 11.04.2024.
12. Further, In the 10th meeting on 22.03.2024, where the CoC discussed the final course of action for the CIRP. The CoC deliberated over the progress made and the outcomes of the CIRP and thereafter unanimously decided for initiation of Liquidation. It was during this meeting that the CoC recommended the Applicant's appointment as the Liquidator of the Corporate Debtor, in accordance with Section 34(1) of the Code.
13. The CoC agreed on a Liquidator's fee of ₹1,00,000 per month, as per the provisions of Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations inapplicable. As the CoC unanimously voted for the liquidation of the Corporate Debtor and no Resolution Plan was forthcoming, the Applicant proceeded with the liquidation process.
14. We have considered the arguments presented by the learned Counsel for the Applicant and thoroughly reviewed the material available on record. It is observed that, despite the Applicant publishing the Notice of Expression of Interest in Form-G on two occasions initially on 05.09.2023 and subsequently on 26.09.2023 and extending the deadline for the submission of a Final Resolution Plan, no Resolution Plan was received. As a result, the Applicant was unable to proceed with the Corporate Insolvency Resolution Process (CIRP). In light of these circumstances, and in accordance with the



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unanimous decision of the Committee of Creditors (CoC), the CoC opted for the liquidation of the Corporate Debtor.

15. The extract of the relevant resolution by the CoC in its 10th Meeting held on 22.03.2024 is reproduced herein below:

13a) *“RESOLVED THAT the members of the Committee of Creditors are be and hereby approves the filing of liquidation petition of the Company by Mr. Rajesh Ramesh Kamath the Resolution Professional of the company through suitable advocate for these purposes.”*

13b) *“RESOLVED FURTHER THAT the members of the Committee of Creditors proposes the appointment of Mr. Rajesh Ramesh Kamath as liquidator, who has consented to be appointed as the liquidator of the company, subject to approval of the Hon'ble NCLT.”*

13c) *“RESOLVED FURTHER THAT Mr. Rajesh Ramesh Kamath, Resolution Professional of the Company appointed by the Committee of Creditors be and is hereby authorized to do all such acts, deeds and things as may be considered necessary to give effect to the above resolution.”*

16. In view of the above discussions and findings, this Bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down under the Insolvency & Bankruptcy Code, 2016. Hence, we pass the following orders:

ORDER

- a. The Shri Rajesh Ramesh Kamath, holding Registration No. IBBI/IPA-001/IP-P01606/2019-2020/12481 is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai and to the Insolvency and Bankruptcy Board of India; The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;



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- c. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
 - d. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
 - e. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
 - f. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor, if any, as per law.
 - g. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
 - h. Copy of this order be sent to the financial creditors, corporate debtor, the Liquidator for taking necessary steps.
17. The IA-32/2024 filed by the RP for Liquidation of the Corporate Debtor stands **allowed** accordingly in aforesaid terms.

Sd/-

ANIL RAJ CHELLAN
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)