

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

I.A. 478 OF 2021

Under Section 33 of Insolvency & Bankruptcy Code,
2016

Filed by

Mr. Bhavesh Mansukbhai Rathod

Resolution Professional of:

Pollen Computer Private Limited

...Applicant

In the matter of

C.P. No. 2960 of 2019

Hardik Pankaj Jotangia,

Room No. 1, Harjat Bee, Rahim Bhaugh,

Near Radha Krishna Mandir, SV road,

Ambawadi, Dahisar East,

Mumbai - 400068

...Operational Creditor/Petitioner

Versus

Pollen Computer Private Limited,

Shop No. 003, Ground Floor, Pooja Nagar,

Building No. 2 CHS Ltd., Cabin Cross Road,

Bhayander East,

Thane - 401107

...Corporate Debtor

Order delivered on: 29.11.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Mr. Nitish Bangera

1. The above application I.A. No. 478/2021 is filed by Resolution Professional, Mr. Bhavesh Mansukbhai Rathod seeking liquidation of Pollen Computer Private Limited (hereinafter referred as “Corporate Debtor”) under Section 33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. The Hon’ble Tribunal be pleased to allow condonation of delay of 9 days;*
- b. The Hon’ble Tribunal be pleased to pass order for liquidation of the Corporate Debtor;*
- c. The Hon’ble Tribunal be pleased to appoint Mr. Bhavesh Rathod as liquidator for the Corporate Debtor;*
- d. Be pleased to pass such orders as the Hon’ble NCLT may deem fit and proper.*

2. The brief facts of the application are as follows:

- A. The applicant mentioned that this Tribunal vide its order dated 06.01.2020 in Company Petition No. 2960 of 2019 admitted the petition under Section 9 of the Code, filed by Hardik Pankaj Jotangia (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter called as the “CIRP”) was initiated against Pollen Computer Private Limited, (hereinafter called as the “Corporate Debtor”). Mr. Bhavesh Mansukbhai Rathod was appointed as Interim Resolution Professional of (IRP) the Corporate Debtor by this Tribunal vide this Order dated 06.01.2020.
- B. In pursuance of the Order, a public announcement was issued in newspaper on 21.01.2020.
- C. The Committee of Creditors, (hereinafter called as the “CoC”) held their first meeting on 17.02.2020, the applicant was appointed as the Resolution Professional of the Corporate Debtor to conduct the CIRP of the Corporate Debtor in accordance with the relevant provisions of the Code.

- D. Thereafter, the RP prepared Information Memorandum on the basis of the documents available with him. Also the RP released an Expression of Interest (“EOI”) in Form G inviting Resolution Plans from Prospective Resolution Applicants on 29.01.2021. As on the last date fixed for EoI receipt, the RP has not received any EoI from Prospective Resolution Applicants for the Corporate Debtor.
- E. The CoC in its 3rd meeting which was held on 15.02.2021 decided to liquidate the Corporate Debtor since no EoI was received from any prospective resolution applicant. Therefore, the Committee of Creditors unanimously approved initiation of liquidation of the Corporate Debtor by passing the resolution and directed the Resolution Professional to file interlocutory application and seek further directions from this Tribunal. In the same meeting of, CoC decided to appoint the Resolution Professional as Liquidator and the consent for the same is also been given by the Resolution Professional. Thereafter, the Committee decided to put the following resolution, the relevant extract of the resolution is reproduced herein below for ready reference:-

LIQUIDATION OF POLLEN COMPUTER PRIVATE LIMITED AND APPOINTMENT OF MR. BHAVESH RATHOD AS LIQUIDATOR IN THE MATTER OF POLLEN COMPUTER PRIVATE LIMITED UNANIMOUSLY APPROVED

“RESOLVED THAT the Committee of Creditors unanimously approves liquidation of **POLLEN COMPUTER PRIVATE LIMITED** and Mr. Bhavesh Rathod (Resolution Professional) be authorised to make an application before Hon’ble NCLT Mumbai Bench for liquidation of the Corporate Debtor.”

“RESOLVED FURTHER THAT the Committee of Creditors do appoint Mr. Bhavesh Rathod as liquidator for **POLLEN COMPUTER PRIVATE LIMITED** and he is further authorised to appoint professional to represent the Company before the Hon’ble National Company Law Tribunal, Mumbai Bench or any other Court as and when required from time to time in the aforesaid matter.”

“RESOLVED FURTHER THAT *the Resolution Professional be and is hereby authorised to forward the certified true copy of this resolution to any authority as and when required in connection to the above matter with request to act there upon accordingly.”*

3. Heard the arguments of the counsel appearing for the Resolution Professional and perused the record. It is observed from the minutes of the 3rd CoC meeting held on 15.02.2021, they unanimously decided to liquidate the Corporate Debtor. As no resolution had been approved.
4. The Applicant/ Resolution Professional Mr. Bhavesh Mansukbhai Rathod has agreed to act as liquidator to carry on the process of Liquidation and given his consent to act as Liquidator.
5. We have heard the Applicant and perused all the documents submitted by them. It is observed from the minutes of the 3rd CoC meeting that the CoC has unanimously decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Interlocutory Application Number 478 of 2021 and passed the following:

ORDER

1. The above I.A. No. 478/2021 is allowed and the Corporate Debtor Pollen Computer Private Limited is ordered to be liquidated.
 - a. **Mr. Bhavesh Mansukbhai Rathod**, having Registration No. IBBI/IPA-001/IP-P01200/2018-2019/11910 and residing at: A/101, Shelter CHSL, CSC Road, Opp. Shakti Nagar, Dahisar (E), Mumbai - 400068, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. The Liquidator appointed under section 34(1) of the Code. Will have all powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- f. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- g. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the

liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

- i. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

With the above directions, this application i.e. I.A. No. 478 of 2021 is hereby allowed and disposed of.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)