

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

COURT – IV

15. IA-2287/2023 IN C.P. (IB)/555(MB)2021

CORAM:

SHRI PRABHAT KUMAR  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 03.08.2023

NAME OF THE PARTIES: Small Industries Development Bank of India  
Vs.  
Good-Day Foods Private Limited

SECTION: 7, 33(1) (b) (i) to (iii) r/w Sec. 33(3) OF THE INSOLVENCY AND  
BANKRUPTCY CODE, 2016.

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**ORDER**

**IA-2287/2023**

1. Mr. Shavez Mukri i/b A & G Legal Associates LLP, Ld. Counsel for the Applicant/Resolution Professional present. None present for the Respondent.
2. This is an application filed by Mr. Jeetendra Rajpal Daryani, Resolution Professional of the Corporate Debtor on 27.05.2023, seeking liquidation of Corporate Debtor Good-Day Foods Private Limited under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).  
**Brief facts of the Application are as follows:**
3. This Tribunal vide an order dated 05.01.2023, in Company Petition bearing CP(IB)-555/MB-IV/2021 filed under Section 7 of the Code, by Small Industries Development Bank of India (hereinafter referred to as the “Financial Creditor”), was initiated Corporate Insolvency Resolution Process (CIRP) against Good-Day Foods Private Limited [CIN: U15209MH2003PTC255426] (hereinafter called as the “Corporate Debtor”).

The applicant was appointed as Interim Resolution Professional by this Tribunal vide the same order. He was later appointed as Resolution Professional (RP) in the 2<sup>nd</sup> CoC meeting held on 03.03.2023.

3.1. The Applicant submitted that in furtherance to the aforesaid order public announcement inviting claims from the creditors of the Corporate Debtor, as per Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations), was made by the said IRP in two newspapers namely Business Standard (English) and Mumbai Lakshadeep (Marathi) on 12.01.2023.

3.2. Pursuant to the said public announcement, the IRP received claims from the creditors of the Corporate Debtor and constituted Committee of Creditor (herein after referred to as 'CoC'). That the first CoC was convened on 07.02.2023 and various agendas came to be discussed including the list of claims received by the IRP. The IRP also discussed about the disposal of plant and machinery from factory premises and about expenses incurred by IRP.

3.3. That the Second CoC Meeting was convened on 03.03.2023 wherein the CoC resolved to appoint the Applicant herein as the Resolution Professional for the remaining period of CIRP of the Corporate Debtor and discussed and noted the following among others;

- a. Statement of claim compiled as on 03.03.2023.
- b. CIRP cost incurred between 1st CoC meeting and 2nd CoC meeting.
- c. Approval of Expression of Interest (EoI) and release of the same in 2 newspapers.

Extract of the Resolution is reproduced herein:

*"RESOLVED THAT Mr. Jeetendra Rajpal Daryani, Insolvency Professional with registration no. IBBI/IPA- 001/IP-P00678/2017-18/11146 whose consent to act as Resolution Professional is placed on table, be and is hereby appointed as Resolution Professional for conducting the Insolvency Resolution Process on a monthly remuneration of Rs. 1,00,000/- plus Taxes, if any plus out of pocket expenses, which shall continue till the submission of Application for approval of resolution plan u/s. 30 or to liquidate the Corporate Debtor u/s. 33 to the Adjudication Authority, whichever is earlier".*

3.4. The Applicant after being appointed as the Resolution Professional convened the 3<sup>rd</sup> CoC meeting held on 10.04.2023 wherein the CoC resolved to go ahead with the Liquidation of the Corporate Debtor in view of EoI not having being received. The following was also discussed and noted the following among others:

- a. Filing of FIR against suspended director for not protecting machineries, hypothecated to secured lenders.
- b. Liquidation of CD and Appointment of RP as Liquidator.
- b. CIRP cost incurred between 2<sup>nd</sup> CoC meeting and 3<sup>rd</sup> CoC meeting.

3.5. Extract of the Resolution approving liquidation of corporate debtor is reproduced herein:

*"RESOLVED THAT the approval of members of CoC is hereby granted for making an application for Liquidation of Corporate Debtor Good-Day Foods Pvt. Ltd., u/s. 33 with the Hon'ble NCLT Mumbai, and that the Resolution Professional is hereby authorised to file the application for Liquidation through a Legal Counsel".*

*"RESOLVED THAT the Resolution Professional Mr. Jeetendra Rajpal Daryani having registration no. IBBI/IPA-001/IP-P00678/2017-18/11146 is appointed as liquidator of the Corporate Debtor Good-Day Foods Pvt.*

*Ltd. to carry out the process in terms of the provisions of the Code at a fixed remuneration of Rs. 2,00,000/- plus GST and out of pocket expenses at actuals”.*

- 3.6. That the Applicant is eligible and is willing to act as the Liquidator of the Corporate Debtor. Copy of the Certificate of Registration and Authorization for Assignment of the Resolution Professional is annexed hereto.
- 3.7. On the basis of the facts mentioned above and those urged at the time of hearing, the Applicant seeks an order under section 33(2) of the Code for liquidation of the Corporate Debtor on the following grounds:
- 3.7.1. That the Corporate Insolvency Resolution Process (CIRP) period would expire on 5th July, 2023.
  - 3.7.2. That the Corporate Debtor is not operational.
  - 3.7.3. No EOI received in spite of publication and hence no Resolution Plan received for the Corporate Debtor.
  - 3.7.4. As the corporate debtor is totally defunct with nil assets, hence there is no scope of any revival.
4. Considering the facts and circumstances as submitted by the Applicant in the Application and Counsel appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
- a. IA-2287/2023 in CP(IB)-555(MB)/2021 filed by the Applicant for the Liquidation of the Corporate Debtor viz. Good-Day Foods Private Limited is allowed and the company to be liquidated in the following manner:
  - b. The Application proposes the incumbent RP i.e. Mr. Jeetendra Rajpal Daryani, having Registration No. IBBI/IPA-001/IP-P00678/2017-

2018/11146 as the Liquidator. Accordingly, this Bench hereby appoint Mr. Jeetendra Rajpal Daryani, having Registration No. IBBI/IPA-001/IP-P00678/2017-2018/11146 as the Liquidator as provided under Section 34(1) of the Code to conduct the liquidation process of the Corporate Debtor.

- c. 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.
- d. 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.
- e. 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, hereafter ceased to exist and henceforth be vested with the Liquidator.
- f. 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.
- g. 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. 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

- i. This liquidation order u/s 33(7) 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.
5. With the above directions, the IA-2287/2023 in CP(IB)-555(MB)/2021 filed u/s 33(2) by the Applicant is hereby **allowed** and **disposed of**.

**Sd/-**  
**PRABHAT KUMAR**  
**Member (Technical)**

**Sd/-**  
**KISHORE VEMULAPALLI**  
**Member (Judicial)**