



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV**

IA-66/2024 in CP(IB)-924(MB)/2021

Under Section 33(1) of IBC, 2016.

Rajeev Mannadiar

...Resolution Professional/
Applicant

In the matter of

Ritu Automobiles Private Limited

.....Corporate Debtor

Order pronounced on : **10.10.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearance:

For the Applicant: : Adv. Malarika Sachin i/b DS Law.

ORDER

1. This is an Interlocutory Application filed on 01.05.2024 by Mr. Rajeev Mannadiar viz. Resolution Professional of the Corporate Debtor ("Applicant Resolution Professional") under Section 33(2) of Insolvency and Bankruptcy Code, 2016, seeking liquidation of **Ritu Automobiles Private Limited**.

2. **Brief facts of the Case:**

A. This Tribunal vide an order dated 03.10.2022 in Company Petition (IB)-924(MB)/2021, filed under Section 7 of the IBC, 2016 by **HDFC Bank Limited** (hereinafter referred to as the "Financial Creditor") admitted the Petition and Corporate Insolvency Resolution Process (CIRP) was accordingly initiated apropos **Ritu Automobiles Private Limited**

(hereinafter referred to as the “Corporate Debtor”). Mr. Rajeev Mannadiar was appointed as Interim Resolution Professional (“IRP”) by this Tribunal vide the above admission order, and was subsequently re-confirmed as Resolution Professional (“RP”) of the Corporate Debtor by the CoC in its First meeting held on 30.09.2023.

- B.** The Applicant submits that upon receiving the intimation regarding the CIRP admission order, the Applicant made public announcement in Form A on 05.10.2022 in two local newspapers viz. ‘Nav-Shakti’ (*Marathi*) and ‘Free Press Journal’ (*English*). Meanwhile, the suspended Board of Directors challenged the admission order before the Hon’ble NCLAT and the Hon’ble NCLAT vide its order dated 14.10.2022 stayed constitution of CoC and the stay was vacated vide order dated 12.09.2023. Thereafter the First CoC meeting was held on 30.09.2023. In the Second meeting held on 26.10.2023, the CoC deliberated and approved the eligibility criteria of PRAs and the Form-G to be issued.
- C.** The Applicant submits that he published Form-G on 31.10.2023 in two local newspapers viz. ‘Nav-Shakti’ (*Marathi*) and ‘Free Press Journal’ (*English*). In response to the Form-G, the Applicant received EoIs from three PRAs. However, none of them met the eligibility criteria, which was informed to the CoC in its Third meeting held on 04.12.2023. Further, the CoC resolved to revise the eligibility criteria and issue a fresh Form-G. The revised Form-G was published on 21.12.2023 in similar manner against which EoIs were received from four PRAs, out of which, two were found eligible. The same was informed to the CoC in its Fourth meeting held on 24.01.2024. In the Fourth meeting CoC also approved the Information Memorandum, Evaluation Matrix and RFRP. In the Fifth meeting held on 16.02.2024, the CoC resolved to seek for 90 days extension of CIRP period as 180 days coming to end on 28.02.2024. Accordingly, the applicant filed an

Application on 28.02.2024 before this Adjudicating Authority seeking 90 days extension of CIRP period which was allowed on 31.07.2024 extending the CIRP period till 28.05.2024.

D. In the Sixth CoC meeting held on 28.03.2024, the members deliberated as to whether to go for publication of third EoI inviting resolution plan or to recommend for the liquidation of the Corporate Debtor on the following reasons:

- 1. The operations of the company have been closed for the last several years;*
- 2. The CD's Car Dealerships has been terminated;*
- 3. The building is in a dilapidated state;*
- 4. The company does not have any significant intangible assets, brand etc. which can bring value to the CD as a going concern;*
- 5. No resolution Plan received for the two Form "G" published; and*
- 6. More than 180 days has lapsed in the CIRP.*

Finally, the members resolved to proceed with liquidation of the Corporate Debtor, with a majority of 72.60% of the votes. The resolution passed in the said meeting by the CoC is reproduced below:

"RESOLVED THAT approval of the members of CoC be and is accorded to the Liquidation of the Corporate Debtor i.e. Ritu Automobiles Private Limited u/s 33(2) of the Insolvency and Bankruptcy Code, 2016 and any other applicable provisions and intimate the Hon'ble Adjudicating Authority the decision of the Committee of Creditors to liquidate the Corporate and is hereby authorised to take such steps as may be necessary, in relation to the above."



E. The records evince that there was admittedly a discrepancy in the difference between E-voting poll results of the Sixth CoC Meeting and the Minutes of the Sixth CoC Meeting dated 28.03.2024. Upon specific clarification sought by this Bench vide its Order dated 29.07.2024; The Applicant Resolution Professional has sought to file an Additional Affidavit dated 24.09.2024 to substantiate the same. Vide the said Additional Affidavit, the Applicant Resolution Professional submits that one of the Financial Creditors viz. State Bank of India was unable to participate in the e-voting process due to some technical error, and sought to accord its consent to the afore-extracted resolution for Liquidation vide E-Mail dated 15.04.2024. The Applicant Resolution Professional thus submits that the said Resolution for Liquidation of the Corporate Debtor i.e. Ritu Automobiles Private Limited, has been effectively voted upon with 100% voting-share, and the details pertaining to the same have been tabulated as hereunder:

Sr. No.	Name of Creditor	Category	Claim admitted	Voting share (%)
1.	Nissan Renault Financial Services India Pvt. Ltd.	Financial Creditor	2,29,30,957.00	2.80
2.	Axis Bank	Financial Creditor	5,47,65,956.76	6.69
3.	HDFC Bank	Financial Creditor	51,63,09,800.66	63.11
4.	State Bank of India	Financial Creditor	22,41,12,367.17	27.39
	TOTAL			100.00



F. In the Seventh CoC meeting held on 24.04.2024, the members suggested the name of Mr. Mahesh Sureka for appointment of Liquidator of the Corporate Debtor. After deliberations, the following resolution was passed with 93.30% of voting of the members:

“RESOLVED THAT the consent of the members of Committee of Creditors be and is hereby accorded to appoint Mahesh Sureka having registration number IBBI/IPA-001/IP-P00413/2017-2018/10736 (AFA Valid Till 26.09.2024) to act as the Liquidator of the Corporate Debtor who has given his consent for the same as per the provisions of Sec 34(1) of IBC, 2016.”

“RESOLVED FURTHER THAT the fees payable to the Liquidation would be at a rate of 50% (excluding GST if any) of the percentage of fee amount specified in the Table as per the Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016, on the amount realized by the liquidator/secured creditor/distributed (net of Liquidation Costs) to the stakeholders”.

3. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
 - a. The Corporate Debtor viz. **Ritu Automobiles Private Limited** (CIN: U50500MH2010PTC201087) is ‘under liquidation’ w.e.f. the date of this order.
 - b. Mr. Mahesh Sureka, an Insolvency Professional, having IBBI Registration No. IBBI/IPA-001/IP-P00413/2017-2018/10736, is hereby appointed as the ‘Liquidator’ to conduct liquidation process of Ritu Automobiles Private Limited as provided under Section 34(1) of the Code.



- c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
- 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, shall cease to have effect and shall be vested with the Liquidator.
- f. 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.
- g. 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.
- h. 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.
- i. 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.



- j. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s 33(5) of the Code.
- ~~k.~~ 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.
1. Moratorium declared vide Order dated 03.10.2022 in CP(IB)-924(MB)/2021, henceforth ceased to exist.
- m. The Liquidator shall submit the progress report of liquidation periodically.
4. The CoC is directed to clear all dues payable to the Resolution Professional before handing over his charge to the newly appointed Liquidator.
5. With the above directions, the IA-66/2024 in CP(IB)-924(MB)/2021 filed u/s 33 of the IBC, 2016 by the Applicant is hereby **Allowed** and Disposed-Of.

Sd/-

Anu Jagmohan Singh
Member (Technical)

Sd/-

Kishore Vemulapalli
Member (Judicial)

10.10.2024/pvs
