



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **18.12.2024** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : Axis Trustee Servives Ltd
Vs
GFM Retail Pvt Ltd

MAIN PETITION NUMBER : CP(IB)/189(CHE)/2023
(IA/MA) APPLICATION NUMBERS

IA(Liq)/31/2024

ORDER

Present: Ld. Counsel Ms. Nikita Garg for the Applicant.

Vide separate order pronounced in Open Court, liquidation is ordered against the Corporate Debtor M/s. GFM Retail Pvt Ltd. Shri. Mutharasapuram Ganesan Chandrasekaran is appointed as Liquidator.

Sd/-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Sd/-

(SANJIV JAIN)
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

IA(IBC)(LIQ)/31/CHE/2024 in CP(IB)/189/CHE/2023

*(Filed under Section 33(1)(a), 33(2) & 34(1) of the Insolvency and Bankruptcy Code,
2016 read with Rule 11 of NCLT Rules, 2016)*

*In the matter of **GFM Retail Private Limited***

Hitesh Narayanprasad Agrawal,

Resolution Professional (RP)

Having address at:

Ground Floor, Hotel Bansal

Near Lalita Tower, Behind Railway Station, Alkapuri, Vadodara,

Gujarat- 3900005

... Applicant

Order Pronounced on 18th December, 2024

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : *Nikita Garg, Advocate*

For Axis Trustee Services Ltd : *Prasanth, Advocate*

ORDER

(Heard Through Hybrid Mode)

This is an application filed under Section 33(1)(a), 33(2) & 34(1) of
the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT
Rules, 2016 seeking reliefs as follows:



- (a) *Your Lordship may be pleased to allow the present Application;*
- (b) *Your Lordship may be pleased to pass an order under Section 33(1) and 33(2) of the Insolvency and Bankruptcy Code, 2016 for Liquidation;*
- (c) *Your Lordship may be pleased to pass an order directing the CoC to release the amount which has been incurred by the Applicant during the CIRP.*
- (d) *Your Lordship may be pleased to grant any other relief as it may deem fit in the interest of justice*

2. From the averments made in the application, it is seen that the Financial Creditor, Axis Trustee Services Limited, filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor, GFM Retail Private Limited, for initiation of Corporate Insolvency Resolution Process. The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated vide order of this Tribunal dated 18.03.2024 and the Applicant was appointed, to act as an Interim Resolution Professional ("IRP").

3. It is stated that the Applicant made a public announcement dated 16.04.2024 in two newspapers i.e. Financial Express-All



Chennai edition (English language) and Makkal Kural (Tamil language)-All Chennai edition, inviting claims from the creditors of the Corporate Debtor. The last date for submission of claim was 27.04.2024.

4. It is stated that the Committee of Creditors (CoC) was constituted and a report was filed with this Tribunal on 06.05.2024.

The CoC consisted of the following members,

S. No	Name of Financial Creditors	Amount claimed by creditor	Amount admitted	Voting share (%)
1.	Axis Trustee Services Limited	15,58,44,805	15,13,46,665	93.72%
2.	MITCON Credentia Trusteeship Services Limited	1,01,35,263	1,01,35,263	6.28%
	TOTAL	16,59,80,068	16,14,81,928	100%

5. It is stated that in the 1st CoC meeting dated 13.05.2024, the Applicant gave his Written Consent in Form-AA, for his appointment as Resolution Professional and the CoC, resolved to appoint the Applicant as the RP of the Corporate Debtor.



6. It is stated that on 04.06.2024, Mr. Vinod Agrawal, Authorized by the Applicant, visited the premises of the Corporate Debtor and took control and custody of all the assets over which the Corporate Debtor has ownership right as recorded in the Balance Sheet of the Corporate Debtor.

7. It is stated that the Applicant published Form-G, in Financial Express-All Chennai edition (English language) and Makkal Kural (Tamil language)-All Chennai edition on 20.05.2024, for inviting Expression of Interest ("EOI") from the prospective resolution applicants. The last date for submission of EOI was 04.06.2024 and the last date for submission of Resolution Plan was 26.07.2024

8. It is stated that the Applicant received one Expression of Interest from Nakshatra Asset Ventures Limited. However, no resolution plan was received from Nakshatra Asset Ventures Limited, till the last date of submission of Resolution Plan on 26.07.2024. Therefore, the Applicant refunded the Earnest Money Deposit, amounting to Rs. 5,00,000/-. The Applicant did not receive any other EOIs or Resolution Plans.



9. It is stated that the 2nd CoC meeting was held on 25.06.2024. It is stated that on 02.07.2024, he filed the First Status Report for the period 18.03.2024 to 10.06.2024.

10. It is stated that the following professionals were appointed by the Applicant,

- i. Padam Chand Jain & Associates, Chartered Accountant, for GST and TDS compliance matters.
- ii. Mr. Raju Padmanaban and Mr. R. Sridharan, as registered valuer for carrying out valuation of Plant and Machinery. The valuation was received on 16.06.2024, as per which negligible plant and machineries are left with the Corporate Debtor.
- iii. Mr. Ativ Patel and Mr. Chirag Shah, as registered valuer for carrying out valuation of Securities & Financial Assets of the Corporate Debtor. As per the valuation of securities and financial assets report, there are negligible securities and financial assets with the Corporate Debtor.
- v. M/s Ronak Jain & Co. as Transaction Auditor. The Applicant received the Final Transaction Audit Report on 28.08.2024, as per which there are no Receivables of the Corporate Debtor



as the transactions involved the set-off trade receivables against the trade payables, which was Corporate Debtor's routine operational process. Further, there is no whisper of any kind of transaction stated under Section 43, 45, 49, 50 and 66 of the Code, which were entered by the Corporate Debtor during the period 18.03.2022 and 17.03.2024.

11. It is stated that in the 3rd CoC meeting held on 16.08.2024, the CoC members **unanimously** approved the liquidation of the Corporate Debtor under Section 33 of the Code and approved the appointment of the Applicant as the Liquidator. The CoC members resolved the estimated liquidation cost as per Regulation 2 (ea) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 read with Regulation 39B of the CIRP Regulations. Further, the CoC approved the possibility of compromise or arrangement during the pendency of the Liquidation Application and the sale of Corporate Debtor as a Going Concern as per Regulation 39C of the CIRP Regulations. The CoC also resolved to appoint ALPS & Associates as Statutory



Auditors of the Corporate Debtor for the FY 2022-2023 and 2023-2024.

12. It is stated that in the 3rd CoC meeting, the CoC approved the fees of Resolution Professional of Rs. 2,00,000/-, with effect from 11.06.2024 in accordance with Schedule II under Regulation 34B of the CIRP Regulations as the quantum of claims admitted is more than Rs. 50 Crore but less than Rs. 500 crores. The CoC members approved/ ratified the costs and expenses incurred/ to be incurred by the Applicant, as an RP. Further, it is submitted that the Resolution has also been passed with respect to the cost of CIRP.

13. It is stated that the CoC members have given assurance to the Applicant on 16.08.2024 that they will make the payment towards CIRP expenses, at the earliest. It is stated that the Applicant is entitled to receive the expenses incurred and pending during the CIRP.

14. It is stated no business activity is being conducted by the Corporate Debtor and hence, no revenue is generated by it.



15. It is stated that as per the Transaction Auditor, there are no receivables of the Corporate Debtor as the Receivable are set-off with the trade Payables, which is the part of the Corporate Debtor's routine operational process.

16. During the hearing dated 20.09.2024, it was observed by this Tribunal that the Financial Creditor has not cleared the CIRP expenses including the fee of the RP. The CoC was directed to explain how the liquidation expenses will be borne and the mode of payment of CIRP cost.

17. It is seen that the Applicant had filed IA/2045(CHE)/2024 seeking permission to admit the claims received beyond 90 days condoning the delay. The application was dismissed vide order of this Tribunal dated 22.10.2024 on the ground that during liquidation, fresh claims will be invited and filed by the creditors. The Applicant also filed IA/2046(CHE)/2024 to take on record the 2nd Status Report for the period from 11.06.2024 to 27.08.2024. The report was taken on record vide order of this Tribunal dated 22.10.2024.



18. During the hearing dated 11.11.2024, the Applicant submitted that only Axis Trustee Services Ltd has paid the CIRP expenses and MITCON Credentia Trusteeship Services Limited has not contributed towards the CIRP expenses. It was submitted by Axis Trustee Services Ltd that it is willing to bear the proportionate liquidation fees and the expenses. This Tribunal also directed the CoC to propose the name of the Liquidator, since as per the IBBI guidelines, the RP cannot act as Liquidator.

19. During the hearing dated 26.11.2024 Ld. Counsel appearing for the Axis Trustee Services Ltd submitted that they do not propose any Liquidator and that the Tribunal may appoint any Liquidator from its panel.

20. We have heard the submissions and perused the record.

21. The applicant has annexed **Form-H** and the same is placed at **Page Nos.449-454** of the Application typeset. It is seen from the Form-H that no PUFEE applications are pending in this matter.

22. It is seen from the records that the Committee of Creditors in the 3rd CoC meeting held on 16.08.2024 has **unanimously** resolved



to liquidate the Corporate Debtor. In such circumstances, this Adjudicating Authority concludes that this application is to be allowed. We therefore order for initiation for liquidation proceedings as per Section 33(2) of IBC, 2016 against the Corporate Debtor, M/s. GFM Retail Private Limited.

23. It is seen that in the 3rd CoC meeting, the CoC has approved the estimated liquidation cost, the RP's fee with effect from 11.06.2024, fixed the liquidator's fee and approved the CIRP costs. However, as per the submissions made by the Applicant during the hearings, one of the members of the CoC, M/s. MITCON Credentia Trusteeship Services Limited, has not contributed towards the CIRP expenses. We order MITCON Credentia Trusteeship Services Limited to proportionately contribute towards CIRP expenses within two weeks from this order.

24. The CoC has not proposed the name of the liquidator. We hereby appoint *Mutharasapuram Ganesan Chandrasekaran*, with Reg. No. **IBBI/IPA-003/00337/2021-2022/13620** as the Liquidator of the Corporate Debtor, to carry out the liquidation process subject to the following terms of the directions.



- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- 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.
- e) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.



- f) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

25. The Financial Creditors are directed to deposit INR 2,00,000/- (Indian Rupees Two lakhs) to the bank account of the Liquidator within one week, towards his expenses. This shall be subjected to the rules and regulations under the provisions of the Insolvency and Bankruptcy Code, 2016.

26. The Registry is directed to communicate this order to the Registrar of Companies, concerned and to the Insolvency and Bankruptcy Board of India;

27. The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect



and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

28. Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

29. With the above said directions, this **IA(IBC)(LIQ)/31/CHE/2024** filed for Liquidation of the Corporate Debtor stands **allowed**.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

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-Sd

SANJIV JAIN
MEMBER (JUDICIAL)