MA No. 3925 of 2019 In

C.P.(IB) No. 3062/MB/2018

Application filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

CA Amit Chandrasekhar Poddar

(Resolution Professional)

Akshat, 7, Vijay Nagar

Katol Road, Opp. NCC Office,

Nagpur - 440013

..... Applicant

IN THE MATTER OF

Abhyudaya Co-Op Bank Ltd

... Financial Creditor

V/s

Shambhu Mahadev Suger & Allied Industries Ltd

... Corporate Debtor

Order delivered on: - 13.06.2024

Coram:

Anil Raj Chellan Kuldip Kumar Kareer

Member (Technical) Member (Judicial)

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Appearances:

For the Applicant/FC: Adv. Krishnan Iyer a/w Rahul Pillai

ORDER

Per: - Coram

1. The present Miscellaneous Application no. 3925 of 2019 has been filed

by the Resolution professional CA Amit Chandrasekhar Poddar under

Section 33(2) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016

seeking, inter-alia, following relief:

• That this bench be pleased to pass appropriate order under

section 33(2) of Insolvency and Bankruptcy Code, 2016,

requiring the Corporate Debtor to be liquidated in the manner as

laid down under the provisions of Insolvency and Bankruptcy

Code, 2016; and appoint a suitable liquidator in the matter, as

the Applicant is not willing to be appointed as a liquidator in the

matter.

2. The Applicant submits that the Misc. Application filed by him in the

matter for keeping the CIRP Process on hold/ in abeyance until

disposal of the pending petitions by the Hon'ble High Court,

Aurangabad, was dismissed by this Bench on dated 08.07.2019, and it

was also directed to file an application either for winding up or

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dissolution, if approved by the Committee of Creditors so that the file can be closed. It was further directed to place the said order of this

bench before the Committee of Creditors for their due consideration.

- 3. The Applicant submits, discussion amongst the COC members concluded that any recovery in this matter would be feasible only if the High Court set aside the sale or if the sale amount was handed over to the Resolution Professional (RP) for distribution. Given the numerous pending matters before the Hon'ble High Court, including petitions filed by the Corporate Debtor, Resolution Professional for issues related to asset sales. Consequently, the COC have opted for liquidation of the Corporate Debtor.
- 4. The Applicant convened the 5th COC Meeting in accordance with Section 24 of the Insolvency and Bankruptcy Code, 2016, on August 26, 2019, at 11:30 AM at the Head Office of Abhyudaya Co-Operative Bank Limited, Mumbai.
- 5. As the Committee of Creditors (CoC) has not recommend a replacement for Mr. CA Amit Chandrasekhar Poddar as Resolution Professional and the current RP has expressed his inability to accept the liquidator assignment due to the lack of approval on certain liquidation points and the non-payment of a significant portion of the

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Corporate Insolvency Resolution Process (CIRP) fees, the situation

remains unresolved.

6. The resolution to proceed with filing of Liquidation Application was

put to vote as under:

"Resolved that the members of the Committee of Creditors unanimously decided

to file an application under section 33(2) of Insolvency and Bankruptcy Code, 2016

with the Hon'ble National Company Law Tribunal (NCLT), Mumbai Bench, to

take the Corporate Debtor "Shambhu Mahadev Sugar and Allied Industries

Limited" into liquidation; and hereby authorize the RP Mr. Amit Chandrashekhar

Poddar to file the application before the Hon'ble NCLT."

The above resolution was unanimously passed by vote of 100% members

present.

"Resolved that the members of the Committee of Creditors confirmed to Appoint

Mr. Amit Chandrashekhar Poddar as the Liquidator. The members also decided

that the Liquidators fees will be as per the chart Regulation 4(3) of the Insolvency

and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Further

resolved that the request of RP for fixation of some minimum monthly fees of

Liquidator shall be considered on the basis of fee quotation as mentioned above."

The above resolution was unanimously passed by vote of 100% members

present.

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- 7. Taking into consideration the facts and circumstances and averments
- made in the Application, we are of the opinion that this is a fit case for liquidation. Therefore, we hereby order the liquidation of the

Corporate Debtor in the following terms:

- a. The Mr. Abhay Narayan Manudhane, holding Registration No. IBBI/IPA-001/IP-P00054/2017-18/10128, 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;
- c. 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;
- d. 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;
- e. 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

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Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

f. 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.

g. 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.

h. 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;

- i. Copy of this order be sent to the financial creditors, corporate debtor, the Liquidator for taking necessary steps.
- 8. The MA-3925/2019 filed by the RP for Liquidation of the Corporate Debtor stands allowed accordingly in aforesaid terms.

Sd/- Sd/-

ANIL RAJ CHELLAN KULDIP KUMAR KAREER

MEMBER (TECHNICAL) MEMBER (JUDICIAL)