

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.303

IA/578(AHM)2023 in CP(IB)/82(AHM)2022

Order under Section 33 & 34(1) IBC

IN THE MATTER OF:

Shivkumar Madanlal Baser RP For Growmore Wealth Pvt LtdApplicant

V/s

Nitin Shelke Prabhakar & OrsRespondent

Order delivered on: 12/07/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-sd-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

IA No. 578 of 2023

IN

CP(IB) No. 82 / NCLT / AHM / 2022

[Application under Section 33 and Section 34(1) of the Insolvency and Bankruptcy Code]

IN THE MATTER OF:

Shivkumar Madanlal Baser RP of
M/s. Growmore Wealth Private Limited
V/s

...Applicant

Mr. Nitin Shelke Prabhakar & Ors.

...Respondent

Order pronounced on 12.07.2024

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

Mr. Shivkumar Madanlal Baser
Resolution Professional (RP) of
M/s. Growmore Wealth Private Limited
IBBI/IPA-001/IP-P01263/2018-2019/12064
Age: Adult, Having address at: A 1001, Opera
House Near Agrasen Bhavan, City Light,
Surat, Gujarat ,395007
E: shivmbaser@gmail.com

...Applicant (RP)

Versus

1. Mr. Nitin Shelke Prabhakar
Member of suspended board
Having address at: A/502, Akash Deep
Mhada Colony CHS, Mulund East
Mumbai-400081
E/ nitin@growmore-group.com
2. Mr. Sachin Nivate
Member of suspended board
Having address at: Jal Dhara Chowk,
Committee Station Road, Golibar,
Santacruz, East Mumbai-400055
E/ nivatesachin15@gmail.com
3. Rajhans Infrabuild LLP
Sole CoC member
Having address at: Office No. 1004 To
1014, 10th Floor, Royal Trade Centre,
Opp. Star Bazar, Adajan, Surat, Gujarat
- 395009
E/ info@rajgreen.co.in
4. Income Tax Office, Vejalpur W -1(1)(1),
Ahmedabad Having address at: Aaykar
Bhavan, Vejalpur , 100 Feet Anand

Nagar Road, Vejalpur, Ahmedabad –
380015
E:ahmedabad.ito1.1.1@incometax.gov.in

....Respondents

Present:

For the Applicant : Mr. Nipun Singhvi, Adv. a.w. Mr. Rahul Bhavsar, & Ms. Pragati Tiwari, Adv.
For the Income Tax Dept. : Ms. Kinjal Vyas, proxy adv. for Ms. Maithili D. Mehta, Adv.

JUDGEMENT

1. This application is filed under Section 33 and Section 34(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation of corporate debtor- Growmore Wealth Private Limited.
2. In view of application filed by Financial Creditor M/s. Rajhans Infrabuild LLP, Corporate Debtor admitted into Corporate Insolvency Resolution Process (CIRP) on 21.06.2022. The applicant was appointed as Interim Resolution Professional (IRP) and subsequently he was appointed as the Resolution Professional (RP). The IRP issued public announcement in Form-A dated 01.07.2022 in various newspapers intimating commencement of CIRP in respect of corporate debtor inviting claims from creditors. The applicant received claim from one

Financial Creditor i.e., Rajhans Infrabuild LLP and Committee of Creditors (CoC) was constituted. The CoC consists of Rajhans Infrabuild LLP having 100% voting share. The applicant also intimated various Government Authorities such as Income Tax Department, GST Department, etc. Various CoC meetings were conducted. The time for CIRP was also extended. The application for non-cooperation against suspended management and for misconduct during CIRP under Section 70 were also filed and pending for consideration. In 6th CoC meeting resolved for liquidation of the corporate debtor since no EoI has been received.

3. As per the provisions of Section 33(2) and Section 34 of IBC and Regulation 40D of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other provisions, CoC in its 6th CoC meeting resolved that the corporate debtor undergoing CIRP be liquidated as a going concern and applicant's name for appointing as a liquidator was also approved.
4. The CoC in consultation with RP in accordance with Regulation 39B of the CIRP Regulations has made the best

estimate of an amount that may be required to meet the liquidation costs. The estimated costs will be Rs.8,00,000/-. It is further stated that no proposal for compromise or arrangement has been received by lenders, members of CoC or by RP.

5. Heard Ld. Counsel for the applicant also gone through the records. The liquidator has served notice on the ex-suspended management and IT. No reply has been received. The ex-management had not given any cooperation to the RP and Sec 19 application was filed, pending Adjudication. There is no claim from IT as per the Form H. The CoC has already consented with 100% majority to approve the liquidation process and submit before this authority.
6. The sole member of CoC- Rajhans Infrabuild LLP in its 6th meeting resolved to liquidate the corporate debtor as the CoC did not receive any viable proposal for revival of the Corporate Debtor. The CoC has also resolved/proposed to appoint applicant to act as Liquidator of the Corporate Debtor. However, the IBBI vide its Circular No.Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers

conferred under Section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth.

7. Taking into consideration the facts, circumstances and averments made in the application, we are of the considered opinion that this application can be allowed. Hence, we pass the following order:

ORDER

- I. Application IA NO. 578 of 2023 in CP(IB) No.82 of 2022 is allowed.
- II. We hereby order for liquidation of Corporate Debtor-M/s. Growmore Wealth Pvt Ltd in terms of the provisions of Section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.
- III. The Moratorium declared under Section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- IV. As per Section 34(4)(b) of the Code, we hereby appoint Mr. Piyush Bhansali, having Registration No.IBBI/IPA-001/IP-P-

02138/2020-2021/13352, Email: piyushsurat@gmail.com is

hereby appointed as a Liquidator of the Corporate Debtor i.e. M/s. Growmore Wealth Private Limited. The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- V. The liquidator to issue a public announcement stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- VI. The liquidator is 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 and in accordance with the relevant rules and regulations.
- VII. The liquidator to follow up and continue to investigate the financial affairs of the corporate debtor to determine any undervalued and preferential transactions, etc. 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.

- VIII. This order is deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor as per Section 33(7) of the IBC, 2016.
- IX. The Liquidator is to 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.
- X. Once the liquidation process is initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in Sub-section (5) of Section 33 of the Code.
- XI. It is further directed that the Personnel of the Corporate Debtor extend all assistance and cooperation to the Liquidator as may be required in liquidating the affairs of the Company in discharging his function as specified under

Section 35 of Insolvency & Bankruptcy Code, 2016.

- XII. The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceed of the liquidation estate under Section 53 of the Code.
- XIII. The RP is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
- XIV. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, RP, and the Liquidator by Speed Post as well as E-mail within one week from the date of this order, after completion of all the formalities.

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DR.V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-sd-

CHITRA HANKARE
MEMBER (JUDICIAL)