IA(I.B.C)/2019(KB)2023 In C.P. (IB)/850(KB)2019

An application under Section 33 (1) (a) of the Insolvency and Bankruptcy Code, 2016

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In the matter of: Indian Overseas Bank, a Nationa Reserved Bank of India, having IT registered office at 763, Anna Salai,	PAN: AAAC11223J and having its Chennai- 600002.
\$7	Financial Creditor
Vers	
Yummz Foods Private Limited, a co	
Companies Act, 2013 having CIN N	
having its registered office at Villaş West Bengal- 741121.	ge & P.O. Khamarshimulia, Nadia,
	Corporate Debtor
Ar	-
In the matter of:	
Ram Ratan Modi, Resolution Prof Limited.	essional of Yummz Foods Private
	Applicant
Date of pronouncement: 18th September, 2024	
CORAM: SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL) SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)	
<b>Appearance (via video conferencia</b> Mr. Shaunak Mitra, Adv. Ms. Shreya Chaudhury, Adv.	<b>ng/physically)</b> ] For the Indian Overseas Bank ]
Mr. Siddhanth Makkar, Adv.	] For the Resolution Professional
Mr. Rohit Lakhmani, Adv.	] For the Suspended Board

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#### ORDER

#### Per: D. Arvind, Member (Technical)

- **1.** This Court convened via hybrid mode of conferencing.
- **2.** The Learned Counsel for the parties were heard in extenso.
- This application IA(I.B.C)/2019(KB)2023 has been preferred by Mr. Ram Ratan Modi, the Resolution Professional (RP) of Yummz Foods Private Limited to seek the following reliefs, inter alia:
  - (a) An order initiating Liquidation proceeding against the Corporate Debtor;
  - (b) An order appointing the Resolution Professional as the Liquidator as the required consent has been given by the Resolution Professional;
  - (c) Such further and/or other order or orders as this Hon'ble Tribunal may deem fit and proper;
- 4. Pursuant to the order dated 17<sup>th</sup> November, 2022 of this Tribunal, Corporate Insolvency Resolution Process (CIRP) was initiated upon the Corporate Debtor. Vide the said order dated 17<sup>th</sup> November, 2022, the Applicant was appointed as the Interim Resolution Professional (IRP).
- 5. In Compliance of Section 15 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate persons) Regulations, 2016, the applicant made Public Announcement in Form-A on 20<sup>th</sup> November, 2022 in Financial Express (English) and Aajkaal (Bengali), Kolkata newspapers. The last date for submission of proof of claims is 1<sup>st</sup> December, 2022.
- 6. In terms of Regulation 6A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate

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persons) Regulations, 2016, the Applicant issue Form G on 20<sup>th</sup> January, 2023 in Business Standard (English) and Aajkaal (Bengali) newspapers both in Kolkata Edition wherein the last date of submission of Expression of Interest (EOI) was 4<sup>th</sup> February, 2023.

- 7. Only one Resolution Plan was received from a Resolution Applicant, namely, Mr. Sabyasachi Saha and Mrs. Dipanwita Saha for a sum of Rs.5.9 crores.
- 8. The said Resolution Plan was not approved by the Committee of Creditors as evidenced in the minutes of the 14<sup>th</sup> CoC meeting held on 20<sup>th</sup> November, 2023. Copy of the minutes of the 14<sup>th</sup> CoC meeting along with the e-voting summary has been annexed as Annexure A-26 of this application.
- 9. Since the Corporate Debtor did not receive any Resolution Plan within the time limit prescribed, the Applicant is seeking liquidation of the Corporate Debtor with the approval of the CoC members.
- 10. We have perused the records of the minutes of the 14th CoC meeting and the voting exercised by the single CoC member Indian Overseas Bank. In the 14th CoC meeting, we note that issue of the liquidation has been discussed in Item No. B6 and B7 which is at pages 225 and 226 of this application. While noting the same, the CoC member did not take any decision.
- 11. The Applicant states that since no Resolution Plan was approved by the CoC members' liquidation of the Corporate Debtor is in the interest of all the stakeholders.
- We have also seen in the 14<sup>th</sup> CoC meeting and it has been stated that a Liquidator be appointed to explore the sale of the Corporate Debtor as a going concern.

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- 13. As per Section 33 (1) (b) of the Insolvency and Bankruptcy Code, 2016, this Tribunal can pass an order requiring the Corporate Debtor to be liquidated, in case, before the expiry Insolvency Resolution Process Period or maximum period permitted for completion of the Corporate Insolvency Resolution Process under Section 12, Corporate Debtor does not receive Resolution Plan under sub-Section (6) of Section 30.
- 14. We have also noted that from the supplementary affidavit filed by the Applicant that the sole Financial Creditor, Indian Overseas Bank approved for liquidation and suggested Mr. Sanjeev Jhunjhunwala as the Liquidator.
- **15.** Accordingly, this Bench, therefore, hereby orders as follows:
  - **a.** Prayers as sought for in IA(I.B.C)/2019(KB)2023 filed by RP, is allowed and Yummz Foods Private Limited, the Corporate Debtor is ordered to be liquidated in terms of Section 33(1) of the Code.
  - **b.** Mr. Sanjeev Jhunjhunwala having Registration No. IBBI/IPA-001/IP-P00325/2017-2018/10595, email: sanjeevjhunjhunwala@gmail.com, is hereby appointed as Liquidator. We find his consent form along with AFA on record as provided under Section 34(1) of the Code;
  - **c.** The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
  - **d.** Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in liquidation.
  - **e.** All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with

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Section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

- **f.** The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but 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 proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in Section 33(5) of the Code read with its proviso.
- **h.** In accordance with Section 33(7) of the Code, this liquidation order 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.
- i. In terms of Section 33 (1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.
- **16.** The application bearing IA(I.B.C)/2019(KB)2023 shall stands disposed of in accordance with the above directions.
- 17. List the main C.P. (IB)/850(KB)2019 for reporting progress on 6<sup>th</sup> November, 2024.

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- **18.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- **19.** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind Member (Technical) Bidisha Banerjee Member (Judicial)

This Order signed on this, the 18th day of September, 2024.

Sayon (Steno)