

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

IA-45(MB-IV)/2024

Under Section 33 of Insolvency & Bankruptcy
Code, 2016.

Mr. Hitesh Kothari

...Resolution Professional/
Applicant

In the matter of

C.P.(IB)/866(MB-IV)2020

Avinash Deviprasad Singh

...Operational Creditor

Vs.

Agrasen Trade Merchants Private Limited

...Corporate Debtor

Order pronounced on: **09.12.2024**

Coram:

Ms. Anu Jagmohan Singh

Hon'ble Member (Technical)

Shri Kishore Vemulappalli

Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP/Liquidator

:

Mr. Manish Jha, Ld. Counsel for the
Applicant.

ORDER

1. This is an application filed by **Mr. Hitesh Kothari**, Resolution Professional of the Corporate Debtor seeking liquidation of **Agrasen Trade Merchants Private Limited** under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).
2. **Brief facts of the Application are as follows:**
 - 2.1. This Tribunal vide an order dated 29.03.2023, in Company Petition bearing C.P.(IB)/866(MB)2020 filed under Section 9 of the Code, by **Avinash Deviprasad Singh** (hereinafter referred to as the “**Operational Creditor**”), admitted the Company Petition and Corporate Insolvency Resolution Process (“**CIRP**”) was initiated against **Agrasen Trade Merchant Private Limited** (hereinafter called as the “**Corporate Debtor**”) and appointed **Mr. Hitesh Kothari** as Interim Resolution Professional by this Tribunal and was confirmed as Resolution Professional in the 1st CoC meeting held on 09.05.2023.
 - 2.2. Pursuant to the above said Order, the Applicant herein issued a Public Announcement on 01.04.2024, in FORM-A, thereby calling upon the Creditors of the Corporate Debtor to file their claims, along with proof on or before 14.04.2023.
 - 2.3. The Applicant submits that the 2nd CoC meeting was convened by the Applicant on 14.07.2023 in which Applicant apprised CoC members that the Applicant sent the demand letters to the debtors of Corporate Debtor.

However, none of the debtors were realizable. He appointed securities or financial valuers as well, however, there are been hardly any realizable material securities or Financial assets. Hence, no Expression of Interest (EoI) or Form G was issued

- 2.4. The Applicant stated that in its 3rd CoC meeting was held on 25.09.2023, in which CoC with 100% Voting Rights through postal ballot resolved to initiate Liquidation. Accordingly, IA no. 5149 of 2023 is filed for the liquidation and the same IA vide order dated 17.01.2024 granted to withdraw the IA and the same IA was dismissed as withdrawn.
- 2.5. The Applicant apprised the CoC members on 4th meeting that there were no assets in the Company and the chances of realization of the receivables are very less and proposed to file the dissolution of the Corporate Debtor. However, the members of CoC propose to liquidate the Corporate Debtor. The relevant extract of the Resolution is reproduced below;-

***“RESOLVED THAT** pursuant to the provisions of Insolvency and Bankruptcy Code, 2016 (the Code), and other applicable provisions if any, including statutory modifications or amendments or any substitution or re-enactment thereof, if any and subject to the approval of the Hon’ble National Company Law Tribunal (NCLT), the consent of the Committee of Creditors (CoC) is hereby accorded to initiate liquidation process in regards to Agrasen Trade Merchants Private Limited”.*

-
3. Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.
4. In that view of the matter, having considered the submissions and on perusal of averments made in the present Interlocutory Application; this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority has left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor. Hence ordered.

ORDER

- a) The Present Application viz. IA/45/2024 in Company Petition no. 866(MB)/2020 stands allowed. The Corporate Debtor, **Agrasen Trade Merchants Private Limited**, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) It is to be noted that, as per IBBI vide its circular no. *LIQ-12011/214/2023-IBBI/840 dated 18.07.2023* in the exercise of its powers conferred u/s 34(4)(b) of the Code had recommended that an IP other than RP/ IRP may be appointed as a liquidator in all the cases where the Liquidator (read liquidation) order is passed henceforth. In view of this circular of IBBI, we hereby appoints **Mr. Manish Lalji Dawda**, having Registration No. **IBBI/IPA-001/IP-P-02506/2021-2022/14020;** Email-

ip.dawdamanish@gmail.com as the Liquidator to conduct liquidation process of “**Agrasen Trade Merchants Private Limited**” as provided under Section 34(4) of the Code.

- c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case, he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

-
- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- i) The Liquidator shall exercise the powers and perform duties as envisaged under *Sections 35 to 50 and 52 to 54* of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit Progress Reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.
- m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
- n) Registry shall furnish a copy of this Order to:
- i. Insolvency and Bankruptcy Board of India, New Delhi;

-
- ii. Regional Director (Western Region), Ministry of Corporate Affairs;
- iii. Registrar of Companies & Official Liquidator, Maharashtra;
- iv. Registered Office of the Corporate Debtor; and
- v. Liquidator, Mr. Mahesh Goverdhan Bagla.
5. With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 45 of 2024 IN C.P.(IB)/866(MB)2020, stands disposed of as **Allowed**. There would however be no order as to costs. Ordered Accordingly

Sd/-
ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

Sd/-
KISHORE VEMULAPPALLI
MEMBER (JUDICIAL)