

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

IA-43(MB-IV)/2024

Under Section 33 of Insolvency &
Bankruptcy Code, 2016.

Mr. Krishna Chamadia

...Resolution Professional/
Applicant

In the matter of

C.P.(IB)/771(MB-IV)2022

Axis Bank

...Financial Creditor

Vs.

**Datta Krupa Roller Flour Mill
Private Limited**

(CIN: U01119MH2005PTC245062)

...Corporate Debtor

Ordered pronounced on: **19.07.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Shri Kishore Vemulappalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP/Liquidator : Adv. Tejas Agarwal a/w
Adv. Ashutosh Agarwal
i/b IC Legal.

ORDER

1. This is an application filed by **Mr. Krishna Chamadia**, Resolution Professional of the Corporate Debtor seeking liquidation of **Datta Krupa Roller Flour Mill 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 28.04.2023*, in Company Petition bearing *C.P.(IB)/ 771(MB)2022* filed under Section 7 of the Code, by **Axis Bank** (hereinafter referred to as the “**Financial Creditor**”), admitted the Company Petition and Corporate Insolvency Resolution Process (“**CIRP**”) was initiated against **Datta Krupa Roller Flour Mill Private Limited** (hereinafter called as the “**Corporate Debtor**”) and appointed **Mr. Krishna Chamadia** as Interim Resolution Professional by this Tribunal and was confirmed as Resolution Professional in the 1st CoC meeting held on 25.05.2023.
 - 2.2. Pursuant to the above said Order, the Applicant herein issued a Public Announcement on 01.05.2023, in FORM-A, thereby calling upon the Creditors of the Corporate Debtor

to file their claims, along with proof on or before 12.05.2023.

- 2.3. The Applicant had issued Form-G Invitation for Expression of Interest (EoI) dated 29.08.2023. The EoIs were to be submitted by 15.09.2023.
- 2.4. Ld. Counsel for the Applicant further submits that at the request of few more interested Applicants, the EoI submission date was extended up to 30.09.2023 by way of Form-G dated 15.09.2023. Ld. Counsel for the Applicant submits that the 4th CoC meeting was held on 05.10.2023, during which the CoC was informed of relevant developments, including the ratified extension of the EOI. The Applicant had received total 14 EoIs by 30.09.2023.
- 2.5. Ld. Counsel for the Applicant submits that, the list of Final Prospective Resolution Applicants (PRAs) was circulated on 10.10.2023 and Information Memorandum and Request for Resolution Plan was issued on 10.10.2023. The last day of submission of the Plan was 20.11.2023. Thereafter, the approval of Resolution Plan was expected to be done within 30 days from the receipt of Resolution Plan by 20.12.2023. However, no Resolution Plans were received.

2.6. Ld. Counsel for the Applicant stated that in its 6th CoC meeting was held on 24.11.2023, the CoC was of the considered view that since no Plans were received, the Corporate Debtor shall be liquidated and the CoC with 99.12% votes approved the liquidation of the Corporate Debtor. The relevant extract of the Resolution is reproduced below;-

“Since no plans were received, it was unanimous view of the CoC that there is no point in continuing with CIRP and the Corporate Debtor should be Liquidated. Accordingly, RP put forth for discussion following liquidation matters before the CoC”

3. Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.
4. This Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor; since, no Resolution Plan could be brought forth and voted for, and in the absence of any Resolution Plan on the table, the order of liquidation shall be passed by this Adjudicating Authority under Section 33 of the Code.
5. 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 Application be and the same is allowed. The Corporate Debtor, ***Datta Krupa Roller Flour Mill 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. Mahesh Goverdhan Bagla**, having Registration No. **IBBI/IPA-002/IP-N00689/2018-2019/12207**; Email-

maheshgbagla@gmail.com as the Liquidator to conduct liquidation process of “**Datta Krupa Roller Flour Mill 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.**

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- 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:

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- 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.**
6. With the aforesaid observations and directions, the Interlocutory Application bearing **IA No. 43 of 2024** IN **C.P.(IB)/771(MB)2022**, 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)