

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

IA-11/2024 in CP(IB)-105/MB/2021

Under Section 33 of the IBC, 2016

Rajesh Kumar Mittal

...Applicant/ Resolution
Professional

In the matter of

Mahindra & Mahindra Financial

Services Limited

...Financial Creditor

v/s

National Auto Wheels Private Limited

...Corporate Debtor

Order Pronounced on: **16.05.2024**

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant: Mr. Aniruth Purusothaman, Advocate.
 Mr. Rajesh Mittal, RP

ORDER

This is an Interlocutory Application filed on 31.01.2024 by Mr. Rajesh Kumar Mittal, Resolution Professional, under Section 33 of the Insolvency and Bankruptcy Code, 2016 Regulations, 2016, seeking liquidation of **National Auto Wheels Private Limited**.

Brief facts of the Application:

1. This Tribunal vide an order dated 13.12.2022 in Company Petition bearing No.: C.P.(IB)-105(MB)/2021 filed under Section 7 of the IBC, 2016, by the Financial Creditor viz. Mahindra & Mahindra Financial Services Limited (hereinafter referred to as the "Financial Creditor") is admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated on National Auto Wheels Private Limited (hereinafter referred to as the "Corporate Debtor"). Mr. Rajesh Kumar Mittal was appointed as Interim Resolution Professional (IRP) by this Tribunal vide the above admission order. He was later appointed as Resolution Professional (RP) of the Corporate Debtor by the CoC.
2. The Applicant submits that he issued public announcement in Form-A on 13.12.2022 inviting claims from creditors of the Corporate Debtor and he received claims from various Financial and Operational Creditors. The CoC was constituted and First CoC meeting was held on 11.01.2023. In the Second CoC meeting held on 11.02.2023, the CoC was reconstituted and informed the members regarding requirement of issuance of Form G for which, to decide the eligibility criteria in the detailed Expression of Interest (EoI) to invite Prospective Resolution Applicants (PRA) to submit their EoI and Resolution Plan. Thereafter, he issued an advertisement dated 11.02.2023 in Form G inviting Expression of Interests (EoI) from Prospective Resolution Applicants (PRAs) for submitting Resolution Plans for the Corporate Debtor. In the third CoC meeting held on 05.04.2023, the Applicant informed the members regarding second reconstitution of CoC, non-receipt of response to the public announcement in Form G and

appointment of registered valuers to conduct the valuation of Plant & Machinery and Securities and Financial Assets. Since no response received to the public announcement in Form G, the Applicant re-issued Form G dated 12.04.2023.

3. As the Applicant noticed syphoning of fund, after verification of account of the Corporate Debtor, he filed one Application with this Tribunal under Section 45(2) claiming for Rs.30,00,000/- and another Application under Section 43 claiming for Rs.1,06,00,703/- from the suspended board of directors.
4. In the Fourth CoC meeting held on 22.05.2023, the Applicant informed the members that he received one EoI from Ocean Capital Market Ltd. Thereafter, RFRP along with Evaluation Matrix was placed before the CoC members for their consideration. As the CIRP period was coming to an end on 11.06.2023 and no plan was finalized, the Applicant moved an Application seeking extension of CIRP period by 90 days, which was allowed by this Adjudicating Authority vide order dated 14.07.2023.
5. Subsequently, in the Fifth CoC meeting held on 07.09.2023, the Applicant informed the members that no resolution plan received from the PRA i.e. Ocean Capital Market Ltd. He further informed that no business operations are going on in the Corporate Debtor as the dealership of the Corporate Debtor has already been terminated by Tata Motors Ltd. At this juncture, the CoC members deliberated that no resolution plan received from the PRA, therefore, without going for further extension of

CIRP, should go for liquidation. Accordingly, the following resolution was passed:

“RESOLVED THAT member of CoC be and hereby approve the Liquidation of NATIONAL AUTO WHEELS PRIVATE LIMITED in accordance with provisions of section 33 of the Insolvency and Bankruptcy Code, 2016 subject to the approval of Hon’ble Adjudicating Authority.”

The above resolution was passed with 100% voting of the members participated in the e-voting.

6. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
 - a. The Corporate Debtor viz. National Auto Wheels Private Limited (CIN: U50300PN2010PTC137716) is ‘under liquidation’ w.e.f. the date of this order.
 - b. Mr. Hetal Gaurang Kothari, an Insolvency Professional, having IBBI Registration Number : IBBI/IPA-001/IP-P01610/2019-2020/12500, e-mail: iphetalkothari@gmail.com, cell: 7738226617, is hereby appointed as the ‘Liquidator’ to conduct liquidation process of National Auto Wheels Private Limited as provided under Section 34(1) of the Code.
 - c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation

4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.

- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The Liquidator to send this order to the RoC under which this Company has been registered.
- e. The Liquidator appointed under section 34(1) of the Code, will have all powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator.
- f. The personnel of the Corporate Applicant are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- h. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s. 33(5) of the Code.

- i. This liquidation order u/s 33(7) shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Applicant except to the extent of the business of the Corporate Applicant continued during the liquidation process by the Liquidator.
 - j. Moratorium declared vide Order dated 13.12.2022 in CP(IB)-105(MB)/2021, henceforth ceased to exist.
 - k. The Liquidator shall submit the progress report of liquidation periodically.
7. With the above directions, the IA-11/2024 in CP(IB)-105(MB)/2021 filed u/s 33 by the Applicant is hereby **allowed** and disposed of.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)