

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

IA-46/2024 in CP(IB)-1045/MB/2021

Under Section 33 of the IBC, 2016

Surya Pratap Gupta

...Applicant/
Resolution Professional

In the matter of

State Bank of India

...Financial Creditor

v/s

Yash Jewellery Private Limited

...Corporate Debtor

Order Pronounced on: **28.06.2024**

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant:

Mr. Ayush Rajani *a/w* Ms. Khushboo Shah
Rajani *i/b* AKR Legal, Advocate.

ORDER

This is an Interlocutory Application filed on 16.03.2024 by Mr. Surya Pratap Gupta, Resolution Professional, under Section 33 of the Insolvency and Bankruptcy Code, 2016, seeking liquidation of **Yash Jewellery Private Limited**.

Brief facts of the Application:

1. The captioned Company Petition bearing C.P.(IB)-1045(MB)/2021 filed under Section 7 of the IBC, 2016, by the Financial Creditor viz. **State Bank of India** (hereinafter referred to as the “Financial Creditor”) was admitted by this Tribunal vide Order dated 10.08.2023 and Corporate Insolvency Resolution Process (CIRP) was thereby initiated against **Yash Jewellery Private Limited** (hereinafter referred to as the “Corporate Debtor”). Accordingly, **Mr. Surya Pratap Gupta** was appointed as Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide the afore-mentioned admission order and was later confirmed as the Resolution Professional (RP) by the Committee of Creditors (“CoC”) of the Corporate Debtor.
2. The Applicant submits that he caused the issuance of a public announcement in Form-A dated 12.08.2023, inviting claims from the creditors of the Corporate Debtor and he received claims based on which the Committee of Creditors (CoC) was accordingly constituted.
3. Thereafter, the Applicant published Form G on 11.10.2023 inviting Expression of Interests (EoI) from Prospective Resolution Applicants (PRA). He received only two Expression of Interests. Both parties did not submit the requisite EMD and other required documents. Therefore, both the Applicants did not qualify to include in the provisional list. As the CoC in its third meeting recommended for republishing Form G, the Applicant published Form G again on 20.11.2023 against which, the Applicant received only two EoIs, out of which, one was the earlier

applicant. This time also, the said Applicant did not submit EMD and other desired documents. In the case of new PRA, it did not submit the EMD but submitted some net worth certificate comprising shares held in other companies and loan provided to other companies. Since there is no EMD, both Applicants did not qualify second time too.

4. In the Fifth CoC meeting held on 20.01.2024, the members decided not to issue third time Form G inviting EoIs from PRAs and since no valid PRAs available even after two rounds of invitations, the CoC decided to take the Corporate Debtor into liquidation. Accordingly, the CoC passed the following resolution with 100% votes favoring the same:

“RESOLVED THAT in line with section 33(1)(a) of IBC, 2016, the CoC hereby decides to file an application through the Resolution Professional for seeking the Liquidation of Yash Jewellery Private Limited.”

Accordingly, the Applicant/RP has filed the present Application seeking approval of Liquidation of the Corporate Debtor.

5. The Applicant has proposed the name of the Liquidator viz. **Ms. Ritu Rastogi**, an Insolvency Professional having registration No.: IBBI/IPA-001/IP-P00204/2017-2018/10393. The proposed Liquidator has also provided written Consent to act as Liquidator of Yash Jewellery Private Limited, and the same forms part of the record.
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. Yash Jewellery Private Limited (CIN: U27205MH2006PTC165520) is 'under liquidation' w.e.f. the date of this order.
- b. This Tribunal hereby appoints **Ms. Ritu Rastogi**, an Insolvency Professional, having IBBI Registration No.: IBBI/IPA-001/IP-P00204/2017-2018/10393 as 'Liquidator' to conduct liquidation process of Yash Jewellery 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 Debtor 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 to be continued during the liquidation process by the Liquidator.

- j. Moratorium declared vide Order dated 10.08.2023 in CP(IB)-1045(MB)/2021, henceforth ceases to exist.
- k. The Liquidator shall submit the progress report of liquidation periodically.
7. With the above directions, IA-46/2024 in CP(IB)-1045(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)