

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - I

ITEM No.202- IA(Liq.)/7(AHM) 2024
In
C.P.(IB)/99(AHM)2023

Proceedings under Section 9 IBC

IN THE MATTER OF:

Shree N.H.Enterprises

.....Applicant

V/s

Raghuvanshi Industries Pvt Ltd

.....Respondent

Order delivered on 29/04/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant : Mr. Vishwas Shah, Advocate a/w.

: Mr. Vinodkumar Shah, PCS

For the Respondent :

ORDER

IA/(Liq.)/7(AHM) 2024

1. This is an application filed under Sections 33(2) and 34 of the, 2016 Act seeking the liquidation of the corporate debtor, i.e., Raghuvanhi Industries Private Limited, and the appointment of the liquidator.
2. The CIRP was ordered by this Bench vide an order dated 19.09.2023, in CP(IB)/99(AHM)/2023 under Section 9 of the IBC, 2016.
3. Subsequently, the public announcement was made by the RP in two newspapers, i.e., "Financial Express" Ahmedabad Edition (English Language) and "Financial Express" – Ahmedabad Edition (Gujarati Language), on 27.09.2023, and upon receipt of the claims, a CoC was formed, constituting

two operational creditors, i.e., (i) Shree N H Enterprises and (ii) Assistant Commissioner of State Tax – Gujarat.

The First Meeting of the CoC was conducted on 25.10.2023, none of the Resolutions were passed except for the publication of Form-G and approval of the evaluation of the matrix.

4. Subsequently, the applicant received new claims from unsecured financial creditor P N Traders, and accordingly, the CoC was reconstituted with sole financial creditors P N Traders. The 2nd meeting of the CoC was held on 13.12.2023, whereat all creditors were present. The CoC took note of the public announcement in Form-G published on 20.11.2023 in "Financial" Express"—Ahmadabad Edition (English) and "Financial" Express"—Ahmadabad Edition (Gujarati Language). However, no expression of interest was received. The CoC did not vote on any of the resolutions placed, which included the appointment of a resolution professional for approval/ratification of costs, etc.
5. Further, the CoC decided not to conduct a transaction audit. A copy of the minutes of the 2nd CoC meeting is appended in Annexure F.
6. The 3rd CoC meeting was held on 23.01.2024, no resolutions were passed. It is stated that the 4th and 5th CoC meetings could not be held for the want of quorum.

7. The applicant received one more claim of an unsecured financial creditor, i.e., Harsiddhi Enterprise, and accordingly, the CoC was reconstituted with two financial creditors and for which an IA was filed with this Tribunal, bringing the re-constitution of the CoC on record.
8. The 6th CoC meeting was held on 21.03.2024. The CoC decided not to reissue a fresh IOI. The necessary resolution in connection with liquidation was passed with 79% of the CoC voting in favor of the Resolution.
9. From page No. 89, it is seen that the CoC has recommended the appointment of CA Vinod Tarachand Agrawal, having IBBI Registration No. IBBI/IPA-001/IP-P00641/2017-18/11090, the applicant/RP herein as to act the liquidator of the corporate debtor.
10. Form-H is placed on page Nos. 112–122 of the application.
11. We have heard the Counsel for the applicant and perused the documents placed before us for consideration. It is seen that, the CoC, with 79% voting share, has approved the liquidation of the corporate debtor. Further to this, in response to Form-G, no expression of interest was received. The CIRP period of the corporate debtor has ended on 23.03.2024. A compliance certificate has been placed before us vide inward diary No. D-3422 dated 24.04.2024, which is taken on record, which establishes that the RP has already given due notice of the meeting and the liquidation was considered to the suspended Board of Directors, who have chosen not to attend the CoC meeting.

12. The IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in exercise of its powers conferred under Section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth. In terms of the above circular of IBBI, we hereby appoint **Mr. Devendra Jain**, having Registration No. **IBBI/IPA-001/IP-P00255/2017-2018/10484**, as per the panel suggested by IBBI for this Bench for the period of January 1, 2024 to June 30, 2024, as the Liquidator of the Corporate Debtor to carry the liquidation process subject to the following terms of the directions:

13. We hereby appoint **Mr. Devendra Jain, having Registration No. IBBI/IPA-001/IP-P00255/2017-2018/10484, email id devendradjain [at]hotmail [dot] com** as the Liquidator of the Corporate Debtor to carry the liquidation process subject to the following terms of the directions:-

- a) The Corporate Debtor - **M/s. Raghuvanshi Industries Private Limited** shall be ordered for liquidation in terms of the provisions of section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.
- b) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.

- c) As per section 34(4)(b) of the Code, **Mr. Devendra Jain, having Registration No. IBBI/IPA-001/IP-P00255/2017-2018/10484**, is hereby appointed as a Liquidator of the Corporate Debtor i.e., **M/s. Raghuvanshi Industries Private Limited**. The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d) All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the Liquidator.
- e) The personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- f) The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- g) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the

prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.

- h) This liquidation order shall be deemed to be 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) The Liquidator shall endeavour to explore the viability of selling the Corporate Debtor as a going concern in term of Regulation 32A of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- j) This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees could also be informed of this liquidation order through their association.
- k) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section 35(1) of IBC,

2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

- l) The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.

- m) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

13. Accordingly, **IA(Liq.)7/(AHM) 2024** in CP(IB) No. 99 of 2023 is disposed of.

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SAMEER KAKAR
MEMBER (TECHNICAL)

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SHAMMI KHAN
MEMBER (JUDICIAL)