

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

IA-16/2024 in CP(IB)-258/MB/2021

Under Section 33 of the IBC, 2016

Snehal Kamdar

...Applicant/
Resolution Professional

In the matter of

Omkara Assets Reconstruction Pvt. Ltd.

...Financial Creditor

v/s

Vyva Apparels (India) Pvt. Ltd.

...Corporate Debtor

Order Pronounced on: **29.04.2024**

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant: Mr. Maulik Chokshi, Advocate.

ORDER

This is an Interlocutory Application filed on 20.03.2024 by Mr. Snehal Kamdar, Resolution Professional, under Section 33 of the Insolvency and Bankruptcy Code, 2016 Regulations, 2016, seeking liquidation of **Vyva Apparels (India) Private Limited**.

Brief facts of the Application:

1. This Tribunal vide an order dated 17.02.2023 in Company Petition bearing C.P.(IB)-258(MB)/2021 filed under Section 7 of the IBC, 2016, by the Financial Creditor viz. Omkara Assets Reconstruction Private Limited (hereinafter referred to as the "Financial Creditor") admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated on Vyva Apparels (India) Private Limited (hereinafter referred to as the "Corporate Debtor"). Mr. Snehal Kamdar 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 23.02.2023 inviting claims and he received various claims from creditors based on which he constituted the Committee of Creditors (CoC). Thereafter, the First CoC meeting was held on 23.03.2023. In the Second CoC meeting held on 19.04.2023, it was approved to publish Form G inviting Expression of Interest from prospective resolution applicants. It was also decided to appoint registered valuers for valuing the land and building, plant and machinery and securities and financial assets of the Corporate Debtor. In the Fourth CoC meeting held on 10.07.2023, the RP briefed the CoC with regard to the pre-conditions of the PRA from whom the only one interest received. Also, suggested for liquidation of the Corporate Debtor. In the Fifth CoC meeting held on 16.08.2023, Transaction Auditor was appointed to conduct transaction audit of the previous two financial years as the Applicant noticed some suspicious

bank transactions of the Corporate Debtor. CoC also decided to liquidate the Corporate Debtor recommending the name of Liquidator. In the Sixth CoC meeting held on 01.12.2023, CoC passed a resolution with 100% voting, in favour of liquidation of the Corporate Debtor. Accordingly, the Applicant filed this Application for approval of Liquidation of the Corporate Debtor.

3. The Applicant submits that the CoC proposed Ms. Bharati Daga, an Insolvency Professional, having IBBI Registration Number : IBBI/IPA-001/IP-P-01963/2020-2021/13070 to act as Liquidator of the Corporate Debtor during the process.
4. The proposed Liquidator has given her Letter of Consent to act as Liquidator of the Corporate Debtor.
5. 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. Vyva Apparels (India) Private Limited (CIN: U18202MH2012PTC229892) is 'under liquidation' w.e.f. the date of this order.
 - b. Ms. Bharati Daga, an Insolvency Professional, having IBBI Registration Number: IBBI/IPA-001/IP-P-01963/2020-2021/13070, is hereby appointed as 'Liquidator' to conduct liquidation process of Vyva

Apparels (India) 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 continued during the liquidation process by the Liquidator.
 - j. Moratorium declared vide Order dated 17.02.2023 in CP(IB)-258(MB)/2021, henceforth ceased to exist.
 - k. The Liquidator shall submit the progress report of liquidation periodically.
6. With the above directions, the IA-16/2024 in CP(IB)-258(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)