

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

IA-49(MB)2024 IN C.P. (IB)/631(MB)2021

Under Section 33(1) of Insolvency &
Bankruptcy Code, 2016.

Mr. Brijendra Kumar Mishra

...Resolution Professional/
Applicant

In the matter of
State Bank of India

...Financial Creditor

Vs.

Gopinath Dairy Products Private Limited

...Corporate Debtor

Ordered pronounced on: **25.06.2024**

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP/Liquidator

: Mr. Manoj Mishra Adv.

ORDER

1. This is an application filed by Mr. Brijendra Kumar Mishra, Resolution Professional of the Corporate Debtor seeking Liquidation of Gopinath Dairy Products Private Limited and praying for appointment of any

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suitable Insolvency Professional as Liquidator of the Corporate Debtor under Section 33(3) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).

Brief facts of the Application are as follows:

2. This Tribunal vide an order dated 09.02.2023, in Company Petition bearing C.P.(IB)/631(MB)2021 filed under Section 7 of the Code, by State Bank of India (hereinafter referred to as the “Financial Creditor”), admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against Gopinath Dairy Products Private Limited [CIN: U15100MH1994PTC081329] (hereinafter called as the “Corporate Debtor”). Thereafter, in the 1st CoC meeting convened on 14.03.2023, the Applicant was regularized as the Resolution Professional (RP) of the Corporate Debtor with 100% voting majority.
3. The applicant submits that in response to the public announcement, the applicant has only received one claim from a Financial Creditor i.e., State bank of India. The Committee of Creditors (CoC) was accordingly, duly constituted on 07.03.2023 consisting of State Bank of India as the sole CoC member holding 100% voting share.
4. The Applicant submits that 1st Form-G was published on 18.04.2023 inviting EoIs till 03.05.2023.
5. The applicant submits that in 5th CoC Meeting held on 01.08.2023, the CoC in its commercial wisdom decided to republish the Form G in order to invite more PRAs.

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6. The Applicant had caused to publish the 2nd Form G on 07.08.2023 inviting EoIs till 19.08.2023 under, section 30(6) of the Code. The last date for submission of Expression of Interest was 19.08.2023.
 7. The applicant submits that in response to the 2nd Form G, two Resolution Applicants namely (1) Mr. Rajesh L. Chitalia (Promoter) and (2) M/s Shri Dutt India Pvt. Ltd. had submitted their resolution plans. Thereafter, on the CoC's request for improvements in the resolution plan, both the PRAs submitted their revised resolution plan on 20.11.2023.
 8. The Applicant further submits that on 13th CoC meeting held on 07.05.2024, wherein the CoC consisting of the sole member State Bank of India in its "commercial wisdom" and with 100% voting majority rejected both the resolution plans submitted by Shri Dutt India Private Limited and Mr. Rajesh L. Chitalia (Promoter) and further accorded its approval to the liquidation of the Corporate Debtor. The CoC in its 13th meeting held on 07.05.2024, resolved to liquidate the Corporate Debtor. The resolution to initiate liquidation proceedings was unanimously approved by the CoC by show of hands. The same are reproduced below:

"RESOLVED THAT pursuant to section 33 of the Insolvency and Bankruptcy Code, 2016. The Liquidation of Gopinath Dairy Products Private Limited ("Corporate Debtor") is hereby approved.

"RESOLVED FURTHER THAT the Resolution Professional is authorized to file an application for liquidation of the Corporate Debtor and to do all such acts, deed or things required for the same purpose.

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9. Considering the facts and circumstances as submitted by the Applicant in the Application and Counsel appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that:
- a. IA-49(MB)2024 IN C.P.(IB)/ 631(MB)2021 filed by the Applicant for the Liquidation of the Corporate Debtor viz. Gopinath Dairy Products Private Limited is **allowed** and the company to be liquidated in the following manner:
 - b. The Applicant has not proposed the name of RP therefore, this Bench hereby appoints Mr. Lalit Kumar Dangi, having Registration No. IBBI/IPA-001/IP-P-01821/2019-2020/12859 (email: lalitkumardangi@gmail.com Mob. 9769606009) as the Liquidator as provided under Section 34(1) of the Code to conduct the liquidation process of the Corporate Debtor.
 - c. 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 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.
 - 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, hereafter ceased to exist and henceforth be vested with the Liquidator.

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- f. The Corporate Debtor to be Liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.
- g. 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.
- h. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding 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.
- 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 Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
10. With the above directions, the IA-49(MB)2023 IN C.P.(IB)/ 631(MB)2021 filed u/s 33(2) by the Applicant is hereby **allowed** and disposed of.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)

25.06.2024