

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II**

IA 2498/MB/C-II/2020

IN

CP (IB) 1545/MB/C-II/2019

Under Section 33 1 (a) of the Insolvency and
Bankruptcy Code, 2016

In the Application of

MA 2498/MB/C-II/2020

Mrs. Palak S. Desai

BKC Centre, 31-E Laxmi Industrial Estate, New
Link Road, Andheri (West), Mumbai 400053.

...Applicant/ Resolution Professional

In the matter of

Bombay Sales Agency

...Financial Creditor

Versus

JSK Marketing Limited

...Corporate Debtor

Order Delivered on 02.12.2021

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Amir Arsiwala, Advocate.

ORDER

Per: Justice P. N. Deshmukh, Member

1. This application is filed by the Resolution Professional for Liquidation of the Corporate Debtor namely **JSK Marketing Limited**.

Facts in the Application can be briefly stated as under:

2. The Corporate Debtor was placed under CIRP vide order dated 23.09.2019, on an Application filed u/s- 7 of the IBC by **Bombay Sales Agency** being the Financial Creditor and Mr. Abhishek Lal was appointed as IRP on the same day. At the first CoC meeting held on 22.10.2019, the IRP expressed his inability to continue as Resolution Professional thus Applicant namely Mrs. Palak S. Desai was appointed as the RP.

In the 2nd CoC meeting held on 17.12.2019, conducted by the Applicant, it was resolved to appoint the valuers for valuation of furniture, plant and machinery and other movable assets of the Corporate Debtor. Thereafter RP conducted 3rd and 4th CoC meetings on 18.02.2020 and 02.12.2020 respectively and in the 4th CoC meeting the Applicant apprised the CoC members about the steps taken by the Applicant in relation with CIRP by apprising of about various interlocutory applications filed before this Tribunal.

3. The Applicant submits that no Resolution Plan was received by the Resolution Professional for the resolution of the Corporate Debtor. In view of thereof, pursuant to several discussions and deliberation, the

CoC members had decided to determine the aforesaid subject matter wherein the CoC members with 100% majority voted in favour of liquidation of the Corporate Debtor. Therefore, in the 4th CoC meeting dated 02.12.2020, the CoC members had resolved to appoint the existing Resolution Professional i.e., Mrs. Palak S. Desai the Applicant as the Liquidator of the Corporate Debtor. Relevant extract of the Resolution passed is reproduced hereunder:

***“RESOLVED THAT** pursuant to Section 33, sub section (2) of Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Committee of Creditors hereby decides that JSK Marketing Limited, (“Corporate Debtor”) under Corporate Insolvency Resolution Process be liquidated.*

***RESOLVED FURTHER THAT** the Committee of Creditor hereby directs Ms. Palak Desai, Resolution Professional to intimate the Adjudicating Authority the decision of the Committee of Creditors to liquidate the corporate debtor.*

***RESOLVED FURTHER THAT** the Committee of Creditors hereby authorize Ms. Palak Desai, Resolution Professional to seek legal assistance from external legal consultant to give effect to this resolution and the cost incidental to give effect to this resolution, as presented at the meeting, to be treated as Insolvency Resolution Process Cost of the Corporate Debtor.*

***RESOLVED FURTHER THAT** the Committee of Creditors hereby authorize Ms. Palak Desai, Resolution Professional to do all acts, deeds and matters as may be necessary to give effect to this resolution.”*

4. The Applicant submits that as there was no receipt of expression of interest for submission of resolution plan, and since there was no possibility of revival or restructuring of the Corporate Debtor, the CoC member decided for liquidation of the Corporate Debtor. In the 4th meeting of Committee of Creditors, the CoC members with 100% voting right assented and resolved to liquidate the corporate Debtor u/s 33 of IBC.
5. Having considered the facts stated as aforesaid and totality of the circumstances this Bench is of the view that there is no alternative but to order that the Corporate Debtor to be liquidated.
6. The RP has given her consent to act as liquidator in Form 2, the same is on record. Therefore, we hereby appoint Mrs. Palak S. Desai, having IBBI Registration No. IBBI/IPA-001/IP-P01517/2019-20/12515 as the Liquidator of the Corporate Debtor **JSK Marketing Limited**.
7. This order for liquidation shall deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.
8. The fees payable to the Liquidator shall be in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016.

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9. The Liquidator shall submit progress reports as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016.
10. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
11. With the aforesaid observations Application IA No. 2498 of 2020, U/s. 33 (1) (a) stands disposed of as Allowed. Order Accordingly.

Sd/-

SHYAM BABU GAUTAM
Member (Technical)

02.12.2021

SAM

Sd/-

JUSTICE P. N. DESHMUKH (RETD.)
Member (Judicial)