

**NATIONAL COMPANY LAW TRIBUNAL,**  
**MUMBAI BENCH**  
**COURT II**

Item No.37

**Interlocutory Application(IBC)(Liq.)/110/2024 in C.P. (IB)/139(MB)2023**

**CORAM:**

**SHRI SANJIV DUTT**  
**HON'BLE MEMBER (TECHNICAL)**

**SHRI ASHISH KALIA**  
**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF HEARING (HYBRID) DATED **25.03.2025**

NAME OF THE PARTIES: **Vallabh Narayandas Sawana IN THE  
MATTER OF Hari Om Auto Components  
Private Limited**

**For RP:** Adv. Manoj Mishra.

**Sec 33(1) (b) (i) to (iii) r/w Sec 33(3) U/s 10 of (IBC)**

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**ORDER**

1. The present I.A. has been filed under the provisions of Section 33(1) [b] (i) to (iii) r/W Section — 33(3) and section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as '**the Code**') by **Mr. Vallabh Narayandas Sawana**, Resolution Professional (hereinafter referred to as '**RP/Applicant**') for initiating Liquidation Process against **Hari Om Auto Components Private Limited** (hereinafter referred to as '**Corporate Applicant**').
2. The Corporate Applicant filed the C.P.(IB)/139(MB)/2023 before this Tribunal under Section 10 of the Code, to initiate Corporate Insolvency Resolution Process (hereinafter referred to as '**CIRP**'). This Company Petition was admitted by the Tribunal and the CIRP of Corporate Applicant commenced vide order dated **12.06.2024**.
3. The Applicant was appointed as the Interim Resolution Professional ('**IRP**') to conduct the CIRP. On 25.06.2024, the IRP published a Public Announcement in Form A and constituted Committee of Creditors (hereinafter referred to as '**CoC**'), which consisted of sole Financial Creditor, **Vasai Vikas Sahakari Bank Ltd.,**



having Admitted Claim Amount to the tune of **Rs.6,42,60,205/-** and having 100% voting rights.

4. The IRP called the 1<sup>st</sup> CoC Meeting on 18.07.2024, wherein the Applicant was confirmed as the RP of the Corporate Applicant for conducting CIRP for the remaining period.
5. The 2<sup>nd</sup> CoC Meeting was convened on 29.07.2024. After perusing the minutes of the 2<sup>nd</sup> CoC Meeting annexed to the Application, it came to light that the RP informed the CoC that the Corporate Applicant is not in operation since 2022. The following resolution was put for voting and approved by the CoC unanimously: -

***“RESOLVED THAT*** pursuant to section 33(2) of the Insolvency and Bankruptcy Code 2016 (“Code”) read with Regulation 39B of the Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other applicable provisions of the Code and regulation made thereunder, the consent of the members of the CoC be and is hereby accorded to liquidate the Corporate Applicant.”

***RESOLVED FURTHER THAT*** the RP be and is hereby authorized to sign, execute, file such forms, documents and affidavits and to doRes such matters and things as may be necessary to give effect to the foregoing resolution.”

6. It is thus observed that the CoC unanimously approved the resolution for liquidation of the Corporate Applicant and authorized the RP to sign, execute, file such forms, documents and affidavits and to do such matters and things as may be necessary to Liquidate the Corporate Applicant.
7. Subject to the approval of Liquidation proceedings in respect of the Corporate Applicant, a Liquidator was to be appointed to initiate and carry out the liquidation process of the Corporate Applicant. While perusing the minutes of the 2<sup>nd</sup> CoC Meeting, it came to light that the RP proposed to be appointed as the Liquidator and also placed his consent before the members of the CoC. Pursuant to this proposal, the following resolution was put for e-voting: -

***“RESOLVED THAT*** pursuant to section 34 of the Insolvency and Bankruptcy Code 2016 (“Code”) read with Regulation 3 and 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process)





*Regulations, 2016 and other applicable provisions of the Code and regulation made thereunder, the consent of the members of CoC be and is hereby accorded to appoint Mr. Vallabh N Sawana IBBI Regn. No. IBBIIPA-001/IP-P-02652»'2022-2023;'14114) as the liquidator of the Corporate Applicant at such remuneration as may be mutually agreed and in accordance with the applicable regulations.*

**"RESOLVED FURTHER THAT** Liquidator be and is hereby authorized to sign, execute, file such forms, documents and affidavits and to do such matters and things as may be necessary to give effect to the foregoing resolution.

8. It is observed from the minutes of the 2<sup>nd</sup> CoC Meeting that after the abovementioned resolution was put for e-voting, the sole CoC Member voted against the Resolution for the reason that the sole member of CoC had incurred a heavy loss, therefore the resolution was not approved. It appears that the members of the Committee of Creditors do not wish to proceed in the matter of CIRP and have decided to directly go for the Liquidation of the Corporate Applicant considering the status of the Company, in accordance with provisions of the Code.
9. It is a well settled law that the power given to the CoC to take decision for liquidation is of wide amplitude which can be exercised immediately after constitution of the CoC. Therefore, in terms of the statutory construct of IBC, it is not required for the CoC to complete all the steps relating to resolution of the Corporate Applicant and any interpretation to the contrary would clearly be antithetical to the spirit of Section 33(2) and Explanation appended to it wherein the legislature has consciously used the words 'any time' for liquidation even before inviting resolution plans [**Sunil Surrendrakumar Kakkad Vs. Sujyot Infrastructure Pvt. Ltd. & Anr.** 2024 SCC OnLine NCLAT 1316].
10. Therefore, we are of the considered view that Section 33(2) of the Code read with its Explanation clause empowers the CoC to initiate liquidation even before inviting resolution plans. Accordingly, this Bench is of the opinion that the Corporate Applicant is required to be liquidated in the manner as laid down under the Code. Hence, we pass the following order:

- a) That **Mr. Krishna Gopal Ratanlal Maheshwari** having Registration No. IBBI/IPA-001/IP-P-01296/2019-2020/12712 and email address



1kgmaheshwari@gmail.com having valid Authorization for Assignment up to 30.06.2025 is appointed as Liquidator of Hari Om Auto Components Private Limited in terms of Section 34 of the Code;

- b) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Code and in accordance with the relevant rules and regulations and shall charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code;
- c) The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Code shall commence from the date of this order;
- d) This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Applicant as per Section 33(7) of the Code;
- e) The Liquidator shall issue public announcement stating that the Corporate Applicant is in Liquidation.
- f) The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Applicant in accordance with provisions of Section 35(1) of the Code;
- g) The Liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Applicant, if any, as per law;
- h) The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- i) Registry is directed to communicate this Order to the Registrar of Companies, Mumbai and to the Insolvency and Bankruptcy Board of India;
- j) Subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Applicant. This shall, however, not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.





- k) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Applicant shall cease to have effect and shall be vested in the Liquidator.
- l) Personnel connected with the Corporate Applicant shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- m) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- n) The Liquidator is hereby authorized to represent the Corporate Applicant before the Government Authorities, if need be.
- o) Registry shall furnish a copy of this Order to: -
- (i) The Insolvency and Bankruptcy Board of India, New Delhi;
  - (ii) The Regional Director (Western Region),
  - (iii) The Registrar of Companies, Mumbai & Ministry of Corporate Affairs;
  - (iv) The Registered Office of the Corporate Applicant;
  - (v) The Registered Office of the Financial Creditor i.e., **Vasai Vikas Sahakari Bank Ltd. [Sole CoC Member]**
  - (vi) The Liquidator, Mr. Krishna Gopal Ratanlal Maheshwari having E-mail ID: 1kgmaheshwari@gmail.com.
11. Accordingly, the **I.A. 110/2024** in **C.P.(IB)139/2023** filed by the Liquidator of the Corporate Applicant stands **allowed** and **disposed of** in aforesaid terms.

Sd/-

**SANJIV DUTT**  
**MEMBER (TECHNICAL)**  
JNK

Sd/-

**ASHISH KALIA**  
**MEMBER (JUDICIAL)**



Certified True Copy  
Copy Issued "free of cost"  
On 13/6/25  
*Raw. H. Purohit*  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench