



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-IV**

I.A./170/ND/2023

IN

Company Petition No. (IB)-293 (PB)/2021

(Under Section 33 of the Insolvency and Bankruptcy Code, 2016 for initiating liquidation process of Corporate Debtor and to pass other necessary directions)

IN THE MATTER OF:

M/s. Focus Realcon Private Limited

.... Operational Creditor

Versus

M/s. Royal Crown Projects Private Limited

.... Corporate Debtor

AND IN THE MATTER OF:

Mr. Anil Kumar Singhal
Resolution Professional of
M/s. Royal Crown Projects Private Limited

.... Applicant

CORAM:

**SHRI P. MOHAN RAJ, HON'BLE MEMBER (JUDICIAL)
DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)**

Order Delivered on: 29.03.2023

ORDER

PER: SHRI P. MOHAN RAJ, HON'BLE MEMBER (JUDICIAL)

The above application i.e., I.A./170/ND/2023 is filed by Mr. Anil Kumar Singhal ('Applicant') Resolution Professional of M/s. Royal Crown Projects Private Limited seeking liquidation of M/s. Royal Crown Projects Private Limited ('Corporate Debtor') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 ('Code') praying for the following relief(s):-

- “ a) To allow the present Application;
b) To pass an order under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 to liquidate the Corporate Debtor.



- c) To pass an order for appointment of Mr. Anil Kumar Singhal having IBBI Registration No. IBBI/IPA-001/IP-P00468/2017-2018/10811, as the liquidator of the Corporate Debtor for conducting the Liquidation of the Corporate Debtor.
- d) To pass such other or further order that Hon'ble Adjudicating Authority deem fit and proper in the facts and circumstances of the case."

2. The brief facts of the case leading to filing of this application as averred by the applicant are as follows:

- i) The applicant submits that the Corporate Insolvency Resolution Process was initiated against M/s. Royal Crown Projects Private Limited ('Corporate Debtor') vide this Adjudicating Authority order dated 20.06.2022 in C.P.(IB)/293/PB/2021 an application under Section 7 of the Code, 2016 filed by M/s. Focus Realcon Private Limited ('Financial Creditor'). The applicant further submits that Mr. Debashish Nanda was appointed as the Interim Resolution Professional of the Corporate Debtor by this Adjudicating Authority. The Applicant adds that the Applicant was appointed as the Resolution Professional of the Corporate Debtor pursuant to the third CoC Meeting dated 31.10.2022 and the same is confirmed by this Adjudicating Authority vide its order dated 10.11.2022.
- ii) The applicant submits that the public announcement in terms of Regulation 6(1) of the CIRP Regulations, 2016 was made in Form – A on 07.07.2022 inviting the claims from public, consequent to which Committee of Creditors ('CoC') was constituted on 28.07.2022 wherein M/s. Focus Realcon Private Limited is the sole member of CoC.
- iii) The applicant further submits that the CoC in its Second CoC Meeting dated 27.09.2022, had approved the eligibility criteria, Request for Resolution Plan and invitation for expression of Interest. The applicant adds that Form G was published on 07.10.2022 in two newspapers i.e., Financial Express, English Newspaper and Jansatta, Hindi Newspaper wherein the last date for submission of EoI was 07.10.2022 and last date for submission of Resolution Pan was 06.12.2022.



- iv) The applicant submits that pursuant to publication in Form-G, only one EoI was received from a Prospective Resolution Applicant and the Information Memorandum and Request for Resolution Plan was shared to the Prospective Resolution Applicant in compliance with the CIRP Regulations. The applicant adds that till the last date of receipt of Resolution Plan, no resolution plan was received and the CIRP period of the Corporate Debtor was going to expire on 31.12.2022.
- v) The applicant submits that the applicant in the 4th CoC Meeting conducted on 23.12.2022 had apprised the CoC to explore the option of re-inviting the Prospective Resolution Applicants by republishing Form-G or alternatively, to apply for initiation of Liquidation proceedings of the Corporate Debtor.
- vi) The applicant submits that during the discussions in the CoC meeting, the applicant had informed the CoC that as per the Audited Balance Sheet of the Corporate Debtor there are no fixed assets in the Corporate Debtor and the only investment of the Corporate Debtor are the equity shares of M/s. Peakwood Reality Private Limited. The applicant further submits that after discussion and deliberation, the CoC was of the opinion that since the Corporate Debtor neither have any fixed assets nor the investment in the equity shares of M/s. Peakwood Reality Private Limited have any value as on CIRP date, therefore, it is in the best interest of the stakeholders that the liquidation process be initiated against the Corporate Debtor.
- vii) The applicant adds that CoC with 100% voting in favour had resolved to initiate the Liquidation Process of the Corporate Debtor and appoint Mr. Anil Kumar Singhal, IP Registration No.: IBBI/IPA-001/IP-P00468/2017-18/10811 as the Liquidator of the Corporate Debtor.

3. We have considered the submissions made by the Learned Counsel on behalf of the applicant/Resolution Professional and upon perusing the material available on record, it is observed that the CoC after deliberation about the current state of affairs of the Corporate Debtor and by taking into consideration the fact that the Corporate Debtor had no fixed assets and



based on its commercial wisdom has decided to liquidate the Corporate Debtor. From the minutes of the 04th CoC meeting held on 23.12.2022, it is observed that the CoC has unanimously decided to liquidate the Corporate Debtor and further decided to appoint the applicant as the liquidator at the remuneration decided under Regulation 39 D of The IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 with vote share of 100% in the favor.

4. Further, the CoC in its 4th CoC Meeting had unanimously passed the resolution required under Regulations 39B, 39BA, 39C and 39D of the CIRP Regulations, 2016, which are summarized herein below: -

- a) **Regulation 39B of IBBI (CIRP) Regulations, 2016:** Chairman informed that he has estimated the liquidation cost for an amount of Rs. 4,80,000/- (Rupees Four Lakh Eighty Thousand Only), Further, the actual cost may vary from the estimated liquidation cost as determined under Regulation 39B.
- b) **Regulation 39BA of IBBI (CIRP) Regulations, 2016:** Chairman sought opinion of COC whether an option of compromise or arrangement can be explored. On this, member present asserted that as the CD does not have any assets then the option to explore the compromise and arrangement is impracticable.
- c) **Regulation 39C of IBBI (CIRP) Regulations, 2016:** As per the provisions of the Regulation 39C, the committee may recommend that the liquidator may first explore sale of the corporate debtor as a going concern under clause (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 or sale of the business of the corporate debtor as a going concern under clause (f) thereof, if an order for liquidation is passed under section 33. On this, COC opined that since the corporate debtor is inoperative from the last couple of years then in that scenario it is recommended that the Liquidator can explore all the practicable options which are in the best interest of Corporate Debtor.
- d) **Regulation 39D of IBBI (CIRP) Regulations, 2016:** Chairman sought opinion of member present on the fee of liquidator as per the provisions of Regulation 39D. On this, COC asserted that in the event of sale under clauses (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator shall be paid the liquidation fee of Rs. 1,50,000/- per month (Rupees One Lacs Fifty Thousand Only) and during the balance period of



liquidation not covered under clause (b) of Regulation 39D, the liquidator shall be paid the liquidation fee as specified in sub-clause (b) Regulation 4 of Liquidation Regulations the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

5. It is also seen from the record that the Applicant herein has accorded his written consent in Form AA to act as the Liquidator of the Corporate Debtor. The applicant has also filed his valid Authorization for Assignment (AFA) in Form B.
6. In light of the above, the instant application **I.A./170/ND/2023** is **allowed** and M/s. Reyal Crown Projects Private Limited ('Corporate Debtor') is ordered to be liquidated with the following directions:
 - a. Mr. Anil Kumar Singhal, having IBBI Registration No. IBBI/IPA-001/IP-P00468/2017-2018/10811, having E-Mail id: anilsinghalca@gmail.com is hereby appointed as the Liquidator of the Corporate Debtor as provided under Section 34(1) of the Code, 2016.
 - b. 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.
 - c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.
 - d. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth vest with the Liquidator appointed under Section 34(1) of the Code, 2016.
 - e. That 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.
 - f. This liquidation order 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.
 - g. 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 proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority

- h. 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 Debtor as per law.
- i. The Liquidator shall submit 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.
- j. Copy of this order be sent to the Corporate Debtor, CoC members, Liquidator and RoC, NCT of Delhi & Haryana for taking necessary steps.

With the above directions, this application i.e., **I.A./170/ND/2023 in Company Petition No. (IB)-293 (PB)/2021** is hereby allowed and disposed of.

Sd/-

**(DR.BINOD KUMAR SINHA)
MEMBER (TECHNICAL)**

Sd/-

**(P. MOHAN RAJ)
MEMBER (JUDICIAL)**



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT – IV

Item No. 425
IB/293(PB)/2021

IN THE MATTER OF:

Focus Realcon Pvt Ltd.	...	Applicant
Versus		
Royal Crown Projects Pvt Ltd.	...	Respondent

Order under Section 7 of IBC, 2016.

Order delivered on 29.03.2023

Coram:

MR. P.S.N. PRASAD
HON'BLE MEMBER (JUDICIAL)
DR. BINOD KUMAR SINHA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :
For the Respondent : Mr. Ujjwal Mendiratta, Adv.

ORDER

Due to multiple Benches, there is paucity of time, the matter is adjourned to
20.04.2023.

DR. BINOD KUMAR SINHA
MEMBER (TECHNICAL)

Mukesh

P.S.N. PRASAD
MEMBER (JUDICIAL)