

**In the National Company Law Tribunal
Mumbai Bench**

MA 3707/2019 in C.P. (IB)-3245/(MB)/2018

Under section 33 (i)(a) of Insolvency &
Bankruptcy Code, 2016

In the Application of

Mr. Ravi Prakash Ganti
.....Applicant/ Resolution
Professional

In the matter of

Indiabulls Housing Finance Limited
.....Petitioner/Financial
Creditor

V/s

Akund Buildcon Private Limited.....Respondent/
Corporate Debtor

Order delivered on: 19.12.2019

Coram: Hon'ble Mr. M.K. Shrawat, Member (Judicial)
Hon'ble Mr. Chandra Bhan Singh, Member (Technical)

For the Applicant: Ravi Prakash Ghanti, Resolution Professional, CS Mayank Pandiya
Practicing Company Secretary

Per: *Chandra Bhan Singh, Member(Technical)*

ORDER

1. This is an Application submitted on 18.11.2019 U/s.33 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") by Mr. Ravi Prakash Ghanti, the Resolution Professional of the Corporate Debtor M/s. Akund Buildcon Private Limited, seeking an Order of 'Liquidation' of the Corporate Debtor. It is informed that the Committee of Creditors' meeting held on 12.11.2019 has approved for "Liquidation".

Facts of the case:

2. In this case, the Petition/ Application U/s. 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) filed by the Financial Creditor Indiabulls Housing Finance Limited against 'Akund Buildcon Private Limited', (hereinafter as "Corporate Debtor") was Admitted vide an order dated 19.02.2019 (C.P.3245/IB/MB/2018) by this Bench and

Mr. Ravi Prakash Ghanti (IBBI Registration No: IBBI/IPA-002/IP-N00102/2017-18/10245) was appointed as Interim Resolution Professional (IRP) to conduct the CIRP of the Corporate Debtor.

3. In furtherance to the said order dated 19.02.2019, a public announcement inviting claims from all the creditors in form A of the Schedule II as per regulation 6 of IBBI was published by the Applicant on 23.02.2019 in Free Press Journal (All India Edition) and Navkal (Maharashtra Edition) having its circulation in the region where the registered office of the Corporate Debtor is situated.
4. It is submitted that in the First CoC meeting, comprising of the Sole Financial Creditor Indiabulls Housing Finance Limited was held on 22.03.2019 where the Interim Resolution Professional was Confirmed as the Resolution Professional.
5. Pursuant to the public Announcement after the 2nd COC meeting held on 03.06.2018 invitation for Expression of Interest was published on 07.06.2019. Thereafter, the Resolution Professional submits that in the 3th CoC meeting held on 14.08.2019, it was informed that no EOI had been received against the Form G publication. Further, a re-publication of Form G on 25.09.2019 also did not receive a response from any Prospective Resolution Applicants.
6. The Resolution Professional submits that the 4th COC meeting was held on 12.11.2019 to discuss and accord necessary proposal for liquidation of the Corporate debtor as per provisions of section 33(1) (a). The Financial Creditor unanimously decided to Liquidate the Company of the Corporate Debtor.
7. Thereafter, in the 4th COC meeting held on 12.11.2019, a resolution with 100% vote was passed by the members of COC to initiate liquidation proceedings against the Corporate Debtor.
8. The resolution was passed in the following manner:

Resolution no. 1 Liquidation of the Corporate Debtor

“Resolved that as not a single Expression of Interest and Resolution Plan has been received inspite of Publishing the invitation of Expression of interest (Form G) twice, The Corporate Debtor Akund Buildcon Pvt Ltd is hereby proposed to be liquidated.”

“Resolved Further that as per the provisions of Section 33(1)(a) of the insolvency and Bankruptcy Code, 2016 an application to be made to the Adjudicating Authority to liquidate the Company.

Resolution no 2- Estimate and Funding of Liquidation Process Costs

“Resolved that as the Corporate Debtor Akund Buildcon Pvt Ltd be proposed to be liquidated, the COC approves the estimate of ₹3 lakhs towards Liquidation Costs , excluding fees of the liquidator.

Resolved Further that the Liquidator in the matter appointed by the Hon’ble Adjudicating authority shall provide regular updates, on the costs being incurred towards eligible expenses, to stakeholders consultation committee constituted under sub-regulation (1) of regulation 31A of the IBBI, Regulations 2016

Resolved Further that the Committee of Creditors shall ensure to release timely payments on priority for eligible expenses incurred for conducting the Liquidation process of the Corporate Debtor”

Resolution no 3 – Fees and Expenses of the Liquidator

“Resolved That the Liquidator appointed by the Hon’ble Adjudicating Authority for carrying out the Liquidation of the Corporate Debtor Akund Buildcon Pvt Ltd shall be paid a fee of 75,000/- plus GST per month for a period of 6 months from the liquidation commencement date. If the Liquidation process is not completed in 6 months period, the fee payable shall be as per Reg4(2) of IBBI Liquidation process Regulations

Resolved Further That the Resolution Professional Mr. Ravi Prakash Ghanti shall continue to be paid the applicable fees for the period from expiry of the 270 days of CIRP till date of issue of Liquidation order by this Hon’ble Adjudicating Authority”

9. Hence, in the CoC meeting dated 12.11.2019, the CoC unanimously decided to liquidate the Corporate Debtor under section 33(1) of the I&B Code. The CoC decided that the RP Mr Ravi Prakash Ganti be appointed as liquidator subject to approval of this Bench.
10. The Resolution Professional Mr. Ravi Prakash Ganti has given his written consent to act as ‘Liquidator’ on 14.11.2019 under Regulation 3(1A) of the IBBI (Liquidation Process) Regulations, 2016.
11. The Resolution Professional submits that on 22.03.2019 two registered valuers were appointed approved by the CoC namely Mr. Manish M Jaju and Mr. Harshad Deshpande to determine the liquidation value and fair value of the assets of the Corporate Debtor. The Valuers submitted their valuation reports dated 05.12.2019.

The Average Liquidation Value of the Corporate Debtor is ₹40,04,74,339/- and Average Fair Value of the Corporate Debtor being ₹32,90,89,188/-

12. Considering above facts and circumstances, this Bench hereby Orders that:

- i. The Process of Liquidation shall commence as per the Chapter III of the Code from date of this Order.
- ii. Mr Ravi Prakash Ganti, (IBBI Registration No: IBBI/IPA-002/IP-N00102/2017-18/10245) is hereby appointed as a "Liquidator" as per the Provisions of S. 34 of the Code.
- iii. The RP shall advertise in two Newspapers, one in English language and one in Vernacular Language i.e. Marathi, about the Liquidation of the Corporate Debtor as per the provisions of the Code.
- iv. Copy of this Order shall be forwarded to the Concerned Authority with which the Corporate Debtor is Registered.

13. The Liquidator is at liberty to seek any directions, if need be, from this Bench during the Liquidation Process.

14. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.

15. Ordered Accordingly. Application for U/s. 33 (1) (a) is Allowed.

Sd/-

**CHANDRA BHAN SINGH
MEMBER (TECHNICAL)**

Sd/-

**M. K. SHRAWAT
MEMBER (JUDICIAL)**

DATED: 19.12.2019

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