

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 2**

IA/21(IND)2021 in IA 87 of 2020 in TP 239 of 2019 [CP(IB) 370 of 2018] With
IA 87 of 2020
IA 134 of 2020
IA/10(IND) 2021

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER (JUDICIAL)
HON'BLE Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
INDORE BENCH AT AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 26.02.2021**

Name of the Company: AU Small Finance Bank Ltd
V/s
SRK Devbuild Pvt Ltd

Section: 49 of NCLT Rules/43 & 44/33(1)(a)/47 r.w 45 & 49 IBC/7 of Insolvency and
Bankruptcy Code, 2016

ORDER

IA No. 87 of 2020

Learned Lawyer Mr. L. M. Patel appeared for the Applicant.

Learned Lawyer Mr. Nandish Chudgar appeared for the Respondent.

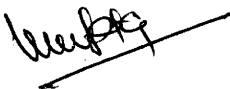
At the request of the Learned Lawyer of the Applicant, the matter stands adjourned.

IA No. 134 of 2020

Learned Lawyer Mr. L. M. Patel appeared for the Applicant.

The instant application is filed under Section 33 of the Insolvency & Bankruptcy Code, 2016.

After filing of the application for liquidation, the Resolution Professional has filed another affidavit dated 30.10.2020 a.w. Sixth meeting of CoC of SRK Devbuild Private Limited held on 26.10.2020.





On perusal of the said Resolution, it is found that, Subhash Agrawal, Suspended Director of the Corporate Debtor was present.

The CoC has passed a Resolution for liquidation of the Corporate Debtor Company with 100% voting in favour of the Liquidation. Annexure-2 of the additional affidavit at Clause No. 4 stated *inter-alia* that CoC members in its last meeting held on 10.09.2020 had decided to liquidate the Corporate Debtor and necessary Resolution to that effect was passed by the CoC. The CoC has also decided to continue Resolution Professional as the 'Liquidator' as the compliance of provision of Regulation 4(1) of the IBBI (Liquidation Process), Regulation, 2016.

It is further resolved that “ *in accordance with Regulation 39B(3) of the IBBI (Insolvency Resolution Process for Corporate Person) Regulation, 2016, considering that the estimated value of the liquid assets of the Corporate Debtor as on date is nil, being less than the estimated liquidation costs (excluding the fees of the Liquidator) of INR 2,50,000/- the CoC hereby approves to contribute for meeting the liquidation costs in tranches as may be called upon by the Liquidator, in the proportion of their voting share in the CoC.*

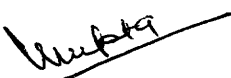
It is further submitted by the Learned Lawyer of the Resolution Professional that since the Corporate Debtor is not a going concern and had seized its operations and there is no information as such with regard to the recovery, if any. Under such circumstances, the CoC decided to go for liquidation of the Corporate Debtor Company. Accordingly, the prayer so made by the Learned Lawyer of the Resolution Professional is allowed with the following observations :

- a) The moratorium declared under Section 14 of the IB Code shall cease to have effect from the date of the order of liquidation.
- b) The Liquidator is further directed to issue public announcement stating that the Corporate Debtor is in liquidation.
- c) The Liquidator is required to send certified copy of this order to the authority with which the Corporate Debtor is registered.
- d) Subject to Section 52 of the IB Code, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.



- e) This Authority makes it clear that para (d) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- f) The Order shall be 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.
- g) All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Company Liquidator. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the IB Code, 2016, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- h) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- i) The Company Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board.
- j) The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, registered office of the Corporate Debtor and Company Liquidator for information and compliance

Accordingly, the IA No. 134 of 2020 in CP(IB) 370 of 2018 so filed by the RP under Section 33 & 34 of the IB Code, 2016 is allowed and the Adjudicating Authority pass an order for initiation of liquidation of the Corporate Debtor viz., SRK Devbuild Private Limited. The RP i.e. Mr. Ravi Kapoor, having regn. no. IBBI/IPA-002/IP-N00121/2017-18/10290 shall act as the 'Liquidator' for the purpose of Liquidation of the Corporate Debtor.



IA No. 10 of 2021

Learned PCS Mr. Pratik Tripathi appeared for the Applicant.

Learned Lawyer Mr. L.M. Patel appeared for the Respondent.

Pleadings are complete, list the matter for argument.

IA No. 21 of 2021

Learned Lawyer Mr. Nandish Chudgar appeared for the Applicant.

The matter was adjourned for today for further consideration, however, on perusal of the record, it is found that on 29.01.2021 an order was passed in IA No. 21 of 2021, whereby order of Ex-parte against the Corporate Debtor has been set aside. In view of that, nothing remains in the application, however, it is inadvertently listed, hence, it may be treated as disposed of.

IA No. 87 of 2020 & IA No. 10 of 2021 stands adjourned to 09.04.2021.



**(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)**



**(MANORAMA KUMARI)
MEMBER (JUDICIAL)**

Dated this the 26th day of February, 2021.