

MA 1726/2019 in C.P. (IB)-1634/(MB)/2017

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

MA 1726/2019 in C.P. (IB)-1634/(MB)/2017

Under section 33(2) of Insolvency &
Bankruptcy Code, 2016

In the Application of

Mr. Udayraj Partwardhan
.....Resolution Professional

In the matter of

M/s Edelweiss Asset Reconstruction
.....Financial Creditor

V/s

Pinky Shipyard Private Limited
..... Corporate Debtor

Order delivered on: 12.12.2019

Coram: Hon'ble Mr. M.K. Shrawat, Member (Judicial)

For the Applicant: Mr Prakash Shinde, Mr Darshit Dave, Ms. Payoja Gandhi, I/b
MDB& Partners, Mr Udayraj Patwardhan for Resolution Professional.

Per: M.K Shrawat, Member (Judicial)

ORDER

1. This is an Application submitted on 06.05.2019 U/s.33 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") by Mr. Udayraj Patwardhan, the Resolution Professional of the Corporate Debtor M/s. Pinky Shipyard Private Limited, seeking an Order of 'Liquidation' of the Corporate Debtor. It is informed that the Committee of Creditors' meeting held on 11.04.2019 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 M/s Edelweiss Asset Reconstruction Company Limited against 'Pinky Shipyard Private Limited', (hereinafter as "Corporate Debtor") was Admitted vide an order dated 31.07.2018 (C.P.1634/IBC/MB/2017) by this Bench and Mr. Manoj Aggarwal was appointed as Interim Resolution Professional (IRP) to conduct the CIRP of the Corporate Debtor.



3. After Admission of the Petition, the erstwhile IRP made a public announcement via form A, in respect of the initiation of the CIRP process. In the first meeting of the Committee of Creditors held on 14.09.2018 in which the agenda to appoint Mr. Udayraj Patwardhan (IBBI Registration No: IBBI/IPA-001/IP-P00024/201617/10057) as the Resolution Professional was passed by the Committee of Creditors and began the functions of RP from 6th December 2018.
4. The Resolution Professional submits vide an order dated 25th February 2019 in MA 553 of 2019, this Bench extended the CIRP process by a period of 90 days from 18.02.2019 with the 270 day period expiring on 18.05.2019.
5. It is submitted that the Resolution Professional had released an advertisement in Form G on 29.01.2019 in the Economic Times (All India Edition), Tarun Bharat (Goa Edition) inviting EOI from Prospective Resolution Applicants(PRA) wherein the last date to file EOI was 13.02.2019 and the last date to file Resolution Plan was 01.04.2019. It is also submitted that vide a modified Form-G dated 14.02.2019 was published on the website of IBBI, last date for submission of PRA's was extended to 28.02.2019.
6. The Resolution Professional submits that till date, no EOI or Resolution Plan has been submitted in respect of the Corporate Debtor. It is submitted that during the 5th COC meeting held on 11.04.2019, The COC unanimously voted for Liquidation of the Corporate Debtor.

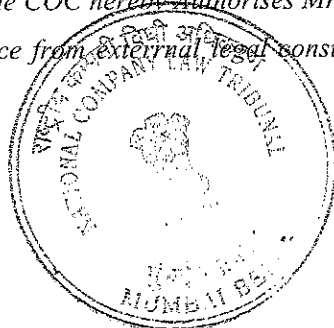
The resolution was passed in the following manner:

“Resolved that pursuant to Section 33, sub section (2) and Section 34 of Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of IBBI (Liquidation Process) Regulations, 2016, The COC hereby decides that Pinky Shipyard Private Limited, (Corporate Debtor) under CIRP be Liquidated”

“Further Resolved that, the COC hereby directs Mr. Udayraj Patwardhan, the RP to intimate the Adjudicating Authority the decision of the COC to Liquidate the Corporate Debtor.

Further Resolved that Mr. Udayraj Patwardhan, Resolution Professional shall be appointed to act as Liquidator of the Corporate Debtor.”

“Further Resolved that the COC hereby Authorises Mr. Udayraj Patwardhan, the RP to seek legal assistance from external legal consultant to give effect to this

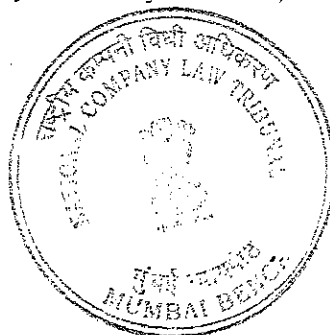


Resolution and the Cost incidental to give effect to this resolution to be treated as Insolvency Resolution Process Cost of the Corporate Debtor.

Further Resolved that the COC hereby to incur/disburse/reimburse the said cost/fee/expenses and authorise Mr Udayraj Patwardhan, Resolution Professional undertake debit transactions for the same from the bank accounts of Pinky Shipyards Private Limited.

Further Resolved that the COC hereby authorize Mr. Udayraj Patwardhan, Resolution Professional to do all acts, deeds and matters as may be necessary to give effect to this resolution.”

7. Hence, in the CoC meeting dated 11.04.2019, the CoC by 100% voting decided to liquidate the Corporate Debtor under section 33(2) of the I&B Code. The CoC decided that the RP Mr Udayraj Patwardhan be appointed as liquidator subject to approval of this Bench.
8. The Resolution Professional Mr Udayraj Patwardhan has given his written consent to act as 'Liquidator' on 11.04.2019 under Regulation 3(1A) of the IBBI (Liquidation Process) Regulations, 2016.
9. The Resolution Professional appointed two valuers for the valuation assets namely (i) Best Mulyankan Consultants Limited where the average liquidation value of the corporate debtor was stated to be ₹5,72,00,000/- and (ii) Kakode Associates Consulting Private Limited where the average liquidation value of the corporate debtor was stated to be ₹6,38,00,000/-
10. 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 Udayraj Patwardhan, (IBBI Registration No: IBBI/IPA-001/IP-P00024/201617/10057) 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.
11. The Liquidator is at liberty to seek any directions, if need be, from this Bench during the Liquidation Process.



12. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
13. Ordered Accordingly. Application for U/s. 33 (2) is Allowed.

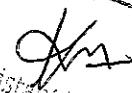
Sd/-

M. K. SHRAWAT
MEMBER (JUDICIAL)

Dated: 12.12.2019

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Copy Issued "free of cost"
On 13/12/2019

Assistant Registrar
National Company Law Tribunal Mumbai Bench