

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P.(IB)- 3244/(MB)/2018

MA 3695/2019

CORAM:

SMT. SUCHITRA KANUPARTHI

MEMBER (J)

SHRI V. NALLASENAPATHY

MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 10.02.2020

NAME OF THE PARTIES: Indiabulls Housing Finance Ltd

V/s

Aashita Builders Pvt Ltd

Section 7 of Insolvency & Bankruptcy Code 2016.

ORDER

47. MA 3695/2019 In C.P. (IB) 3244/(MB)/2018

This is an application filed by the Resolution Professional under Section 33 of Insolvency and Bankruptcy code, 2016 seeking liquidation of the corporate debtor.

The application reveals that the Corporate Insolvency Resolution Process (CIRP) commenced on 27.02.2019 by admission of the petition wherein the applicant was appointed as Interim Resolution Professional (IRP), and continued as Resolution Professional (RP). The applicant issued public announcement on 23.02.2019 intimating the public about the commencement of Corporate Insolvency Resolution Process and called upon the creditor to submit their claim. It is submitted that only one financial creditor has filed a claim for Rs. 70,91,53,403/- which was fully admitted by

the IRP. Subsequently the applicant constituted Committee of Creditors (COC) consisting of the sole financial creditor. In the first meeting of COC held on 22.03.2019 the applicant was confirmed as Resolution Professional (RP). The applicant appointed two valuers to determine the liquidation value of the corporate debtor. As per the decision of the COC, the Resolution Professional conducted the Resolution process in terms of the code, invited the prospective resolution applicants to file their resolution plans, and CIRP period was extended by 90 days which includes certain exclusion of some period. Despite all the efforts including re publishing of invitation for expression of interest on 25.09.2019, no resolution applicant came forward with resolution plan. Hence the COC in the meeting held on 12.11.2019 resolved to liquidate the Corporate debtor as provided under Section 33 (1) (a) of the code, decided to appoint the applicant herein as the Liquidator and the extract of the said resolution is as below:

*“RESOLVED THAT as not a single Expression of Interest and Resolution Plan has been received in spite of publishing the invitation for Expression of Interest (Form G) twice, the Corporate Debtor Aashita Builders Pvt Ltd is hereby proposed to be liquidated.*

*RESOLVED FURTHER THAT the Resolution Professional is hereby authorized to file necessary application before the Hon’ble Adjudicating Authority seeking order of liquidation as per provisions of section 33 (1)(a) of the Insolvency and Bankruptcy Code, 2016*

*RESOLVED THAT the Liquidator appointed by the Adjudicating Authority for carrying out the liquidation of the Corporate Debtor Aashita Builders Pvt Ltd shall be paid a fee of Rs 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 the 6 months period, the fee payable shall be as per Reg 4 (2) of IBBI Liquidation Process Regulations.”*

On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, for the RP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations,

2016 (Regulations), we are of the view that this case is fit to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been submitted before the Adjudicating Authority by the Resolution Professional, and accordingly, this Bench orders;

- a. that the Corporate Debtor to be liquidated in the manner as laid down in the Code by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- b. that the Resolution Professional herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code and his fees is fixed at Rs. 75,000/- per month as decided by COC.
- c. all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- d. 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.
- e. that 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.
- f. This liquidation order shall be deemed to be 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.

Accordingly, this Misc. Application is hereby allowed directing 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.

**Sd/-**

**V. NALLASENAPATHY**  
Member (Technical)

**Sd/-**

**SUCHITRA KANUPARTHI**  
Member (Judicial)