

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II

MA No.1868/MB.II/2019

in

CP (IB) No.1630/MB.II/2017

*Under section 33(1) read with section 34(1) of  
the Insolvency and Bankruptcy Code, 2016*

*In the matter of*

Narsinha Engineering Private Limited

Operational Creditor

Versus

Tathya Engineering & Infraproject Private Limited

Corporate Debtor

**MA No.1868/MB.II/2019**

Anuj Bajpai, as RP of

Tathya Engineering & Infraproject Private Limited

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Applicant

Order pronounced on 07<sup>th</sup> October, 2020

*Coram:*

Mr Rajasekhar V.K.

: Member (Judicial)

Mr Ravikumar Duraisamy

: Member (Technical)

*Appearances:*

For the Applicant

: Ms Disha Ponda i/b AKR  
Advisors LLP, Advocates

Mr Anuj Bajpai, RP in person.

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**ORDER**

*Per: Rajasekhar V.K., Member (Judicial)*

1. This is an application filed by the Resolution professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Tathya Engineering & Infraproject Private Limited, on the ground that there is no possibility for resolution of the Corporate Debtor.
2. This Adjudicating Authority, *vide* its order dated 16.11.2018 on a Petition filed by Narsinha Engineering Private Limited (*Operational Creditor*) under section 9 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*), directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed Mr Pramod Jain as the Interim Resolution Professional (IRP) of the Corporate Debtor.
3. Public announcement was made on 29.11.2018, in *Business Standard* (English) and *Tarun Bharat* (Marathi), fixing 11.12.2018 as the last date for submitting the claim. The newspaper inserts are placed on record as Annexure II at pp.11-14 of the MA.
4. The Committee of Creditors (CoC) was duly constituted, with Punjab National Bank as the sole member of the CoC. The first meeting of the CoC was held on 26.12.2018. At the first meeting, no decision was taken about the appointment of a Resolution Professional (RP) to conduct the CIRP of the Corporate Debtor.
5. On the recommendations of the CoC, this Adjudicating Authority, *vide* order dated 13.02.2019 in MA No.171/2019, approved the

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appointment of Mr Anuj Bajpai, the Applicant herein, as RP of the Corporate Debtor.

6. The CoC, at its 2<sup>nd</sup> meeting held on 25.03.2019, *inter alia* discussed and finalised the Eligibility Criteria, Application Form and Evaluation Matrix for calling for Resolution Plans. Minutes of the said meeting dated 25.03.2019 are placed on record at pp.20-29 of the MA.
7. The CoC, at its third meeting held on 25.04.2019, noted that there were no Expressions of Interest received in response to advertisements issued in this behalf in *The Free Press Journal (English)* and *Navshakti (Marathi)* on 03.04.2019. There was no possibility of any resolution applicant being interested. Therefore, it was also resolved that the Corporate Debtor should be liquidated, and that extension of the CIRP period need not be sought. The minutes of the said meeting of 25.04.2019 have been placed on record at pp.30-36. The resolution pertaining to liquidation is available as Item No.7 at pp.34-35 of the Application.
8. At the fourth CoC meeting held on 13.05.2019, the CoC directed the Applicant/RP to file the application for liquidation of the Corporate Debtor as it did not foresee any interest from any Resolution Applicant for the Corporate Debtor. However, the CoC did not approve the appointment of the Applicant/RP as the liquidator of the Corporate Debtor. Since Punjab National Bank is the sole constituent of the CoC, the resolutions have been approved with 100% voting share.
9. The Applicant/RP is not willing to act as the Liquidator of the Corporate Debtor.

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10. On perusal of the Application along with the enclosures thereto, we are convinced that this is a fit case to pass an order under section 33(2) of the Code for liquidation of the Corporate Debtor in view of the resolution passed by the CoC, which meets the requisite majority criteria of not less than sixty-six percent of the voting share.
11. This Bench, therefore, hereby orders as follows: -
- a. MA No.1868/MB.II/2019 filed by Mr Anuj Bajpai, RP of Tathya Engineering & Infraproject Private Limited, the Corporate Debtor, is allowed. Accordingly, the Corporate Debtor is hereby ordered to be liquidated in terms of section 33(2) of the Code;
  - b. Since the liquidator's name has not been proposed, this Adjudicating Authority hereby appoints Mr. Vighnesh Arun Palkar [Reg. No.IBBI/IPA-001/IP-P-01668/2019-2020/12665], having his office at No.1804, Haware Infotech Park, Sector 30-A, Vashi, Opp Four Points By Sheraton, Navi Mumbai 400705 [Email: [ipvighnesh@gmail.com](mailto:ipvighnesh@gmail.com); mobile: +91-9082851520], as Liquidator in terms of section 34(1) of the Code from the panel of names made available by the Insolvency and Bankruptcy Board of India (IBBI);
  - c. The Applicant/RP shall forthwith hand over possession of the Corporate Debtor, its assets and all documents in his possession, to the Liquidator;
  - d. The Liquidator shall initiate the liquidation process as envisaged under Chapter-III of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
  - e. Public Notice shall be issued in two newspapers, viz., in *Financial Express* (English) and *Navshakti* (Marathi), stating that the Corporate Debtor is in liquidation, as required in terms of section 33(1) of the Code;

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- f. All the powers of the Board of Directors and key managerial persons of the Corporate Debtor shall cease to exist. All these powers shall henceforth vest in the Liquidator;
- g. 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;
- h. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso;
- i. 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;
- j. The Court Officer shall forward a copy of this Order to – (i) the Applicant/ RP, (ii) the Liquidator named in para 11(b) above, and (iii) the Registrar of Companies, Maharashtra, Mumbai, immediately upon pronouncement of this Order; and
- k. A copy of this order shall additionally be served by the Applicant/ RP on the Registrar of Companies, Maharashtra, Mumbai, within whose jurisdiction the Corporate Debtor has been registered, for updating the Master Data of the Corporate Debtor.

Sd/-

Ravikumar Duraisamy  
Member (Technical)

07.10.2020

Sd/-

Rajasekhar V.K.  
Member (Judicial)