



**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**CA No.2837(PB)2019, IA No. 2281 of 2021 ,
IN
CP (IB) No.478(ND)/2017**

An application under section 33(2) of the Insolvency and
Bankruptcy Code, 2016.

In the matter of:

M/S IFCI Limited

... Financial Creditor

Versus

M/s Hi Point Investment Finance Pvt. Ltd..

...Corporate Debtor

And

In the matter of:

Mr. Vikram Kumar

(RP of Hi- Point investment and Finance Pvt. Ltd.)

...Applicant

Order pronounced on: 05.10.2023

Coram:

Chief Justice (Retd.) Ramalingam Sudhakar : Hon'ble President

Shri Avinash K. Srivastava : Hon'ble Member (Technical)

Appearances :

For the RP : Mr. Abhishek Anand, Mr. Karan Kohili, Advs

ORDER

CA -2837/2019

1. This is an application filed by the Resolution Professional ('RP') upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, viz., Hi Point Investment Finance Pvt. ltd [CIN: U67120DL1992PTC050355], on the ground that no viable resolution plan has been received on behalf of the



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corporate debtor. The Applicant has sought for the following reliefs:

- a. To liquidate the corporate debtor, Hi Point Investment and Finance Private Limited under the provisions of Sec 33 (2) of the Code*
 - b. Direct that the liquidator to be appointed in terms of Section 34 of the Code while relieving the applicant – RP of his duties.*
 - c. Pass such other order that it any deem fit in the circumstances of this case and in the interest of justice.*
2. This Adjudicating Authority, *vide* its order dated 29.05.2018 on a Petition filed by the Financial Creditor namely, IFCI Limited under section 7 of the Insolvency and Bankruptcy Code, 2016 (*the Code*), directed initiation of the Corporate Insolvency Resolution Process (*CIRP*) against the Corporate Debtor and appointed the applicant Mr. Vikram Kumar as the Interim Resolution Professional (*IRP*) who was later confirmed as RP by the COC in the first meeting held on 28.06.2018
3. The Applicant submits that Form G was published in newspapers namely Financial Express(English) New Delhi Edition and in Jansatta (Hindi) Delhi Edition on 06.08.2018 and the last date for submission of EOI by the PRAs was on 15.09.2018 and the last date for submission of Resolution plan was on 31.10.2018



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4. It is stated that on the last date of submission of EOI, the RP received an EOI from M/s JS Grover Constructions, Pathankot, thereafter RP requested the Prospective Resolution Applicant to provide the financial statements and net worth certificate as on 31.03.2018 along with the confidentiality agreement to ensure that the applicant meets the eligibility criteria as approved by COC but the Prospective Resolution Applicant has not complied with the same.
5. Further, COC was of the view that since no viable resolution plan was received for revival of the corporate debtor within the stipulated time, thus, in absence of any possibility of getting resolution plan, the members of CoC in the 5th COC meeting held on 31.10.2018, unanimously recommended for liquidation of the Corporate Debtor.
6. Further it is stated by the RP that he is not in the position to take up the assignment due to personal and professional exigencies, thus he is not willing to continue as liquidator of the Corporate Debtor.
7. The RP has filed the present application under section 33(2) of the Code, before this Adjudicating Authority for liquidation of the Corporate Debtor and for appointment of liquidator for conducting the liquidation process.



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IA No. 2281/2021

8. In the meanwhile, on 19.05.2021, one application bearing IA No. 2281/2021 has been filed by Art Construction Private Limited (“ACPL”) through its Authorised Representative Mr. Akshay Dhawan with the following reliefs:
 - a. Pass an order to the effect that the Applicant is allowed to submit a resolution plan under Section 30 of IBC for the Corporate Debtor.*
 - b. Pass any further order in favour of the Applicant that this Hon'ble Adjudicating Authority deems fit under the facts and circumstances of the present case.*
9. It is a matter of record that this Adjudicating Authority vide order dated 13.07.2021 has directed the COC to consider the Resolution Plan submitted by ACPL and further directed that the liquidation application to be kept on hold until the decision of COC on whether the Resolution Plan submitted by the Resolution Applicant is feasible or not.
10. In pursuance to the order dated 13.07.2021, the RP convened the 8th COC meeting on 30.07.2021 where the members of COC sought time to get their approvals in respect of the settlement proposal made by ACPL.



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11. Thereafter, 9th COC meeting of the corporate debtor was convened on 05.08.2021 wherein the members of COC agreed to allow ACPL to submit a Resolution Plan latest by 18.08.2021, which should be fully compliant with the provisions of the Code, for consideration of COC.
12. It is stated that SICOM one of the financial creditors of the corporate debtor has also agreed to give a week's extension to ACPL to file the plan. However, despite the same no resolution plan was given by Art Construction for consideration of COC.
13. Further it is observed that the applicant in IA No. 2281/2021 is not being represented since the last three hearings. In view of the above facts and circumstances, we are of the view, that the applicant is neither interested in submitting the resolution plan nor in contesting the present application, therefore, no useful purpose will be served in keeping this application pending.
14. According the application bearing **IA No. 2281/2021 stands dismissed** and this Bench, therefore, hereby orders as follows: -



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- a. Prayers as sought for in C.A.No. 2837 (PB)/2019 filed by Mr. Vikram Kumar, RP of Hi Point Investment and Finance Pvt. Ltd, the Corporate Debtor, is **allowed** and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with Explanation 1.
- b. Further the present RP is being relieved from his duties from the present CIR process and we appoint Mr. Prassan Navin Kumar Sinha [Reg. No. IBBI/IPA-002/IP-N01197/2021-2022/13971; Email: csprassan@gmail.com]; as liquidator as provided under section 34(1) of the Code and is required to submit his consent within one week of this order.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. 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



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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.

- h. In accordance with section 33(7) of the Code, 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.
 - i. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
 - j. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
 - k. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
15. The Liquidator and the Registry are directed to send the copy of this order within 7 days from the date of this order to the the Registrar of Companies, NCT of Delhi & Haryana. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.



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16. The application bearing **CA No. 2837/2019 and IA No. 2281/2021** stand disposed of in accordance with the above directions.
17. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
18. A copy of this order shall also be forwarded to the IBBI, and concerned parties for their record.
19. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**-Sd-
RAMALINGAM SUDHAKAR
PRESIDENT**

**-Sd-
AVINASH K. SRIVASTAVA
MEMBER(TECHNICAL)**