

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (Court – II)
KOLKATA

IA(IBC)(LIQ.)/14(KB)2024

C.P. (IB)/80(KB)2023

*An application under Section 33(1)(a)(i) of the Insolvency and
Bankruptcy Code, 2016.*

In the matter of:

(1) M/s. Manavta Tradelink Private Limited, a Private Non-Government Company, registered under the provisions of the Companies Act, 1956 having its registered office at 24, Roy Street, Room No. 4, Kolkata – 700020, West Bengal.

... Financial Creditor

-Versus-

(2) M/s. Manikaran Vincom Private Limited, a Private Non-Government Company, registered under the provisions of the Companies Act, 1956 having its registered office at 9/A/1B, Chetla Road, Kolkata – 700027, West Bengal.

... Corporate Debtor

-And-

(3) Mr. Anal Basu, Resolution Professional of Manikaran Vincom Private Limited, working for gain at 27, Haladhar Bardhan Lane Kolkata, Pin Code: 700012, West Bengal.

... Applicant

Date of pronouncing of the order: 05/06/2024

Coram:

SMT. BIDISHA BANERJEE : MEMBER (JUDICIAL)

SHRI D. ARVIND : MEMBER (TECHNICAL)

Appearances (via video conferencing/physically):

Ms. Pallavi Ray, Adv. : For the Resolution Professional



ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The court convened through hybrid mode.
2. Heard Ld. Counsel Ms. Pallavi Ray appearing on behalf of the Resolution Professional in full.
3. This application **IA(IBC)(LIQ.)/14(KB)2024** has been preferred to seek the following reliefs, inter alia: -

(a) To initiate Liquidation Process of Manikaran Vincom Private Limited;

(b) Direct the Financial Creditors, being Manavta Tradelink Private Limited to contribute the excess of the Liquidation Cost over the Liquid Assets of the Corporate Debtor as estimated by him, in accordance with Regulation 2A(1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

(c) Any other or further order(s) as this Learned Tribunal may deem fit and proper.

4. Factual matrix of the case are as under: -

(a) This application was filed by **M/s. Manavta Tradelink Private Limited** (hereinafter referred to as “Financial Creditor”) under Section 7 of the Insolvency & Bankruptcy Code, 2016 before this Adjudicating Authority against the **M/s. Manikaran Vincom Private Limited** (hereinafter referred to as “Corporate Debtor”) to initiate the Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) along with moratorium under Section 14 of the Code.



This Adjudicating Authority *vide* its Order dated 20th October, 2023 admitted the Corporate Debtor into CIRP and appointed Mr. Anal Basu as the Interim Resolution Professional of **M/s. Manikaran Vincom Private Limited**.

- (b) The applicant made Public Announcement as per regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, (“**CIRP Regulations**”) Public Announcements in **Form A** was published on 23rd October, 2023 in two newspapers, namely, “*Business Standard*” (English), Kolkata and “*Ekdin*” (Bengali), Kolkata on 26th October, 2023. The last date for submission of proof of claims by the creditors were on or before 02nd June, 2023.
- (c) It is averred that the applicant had started collating the claims from the Creditors and upon verification, duly constituted the Committee of Creditors (hereinafter referred to as “CoC”) on 11th November, 2023.
- (d) The CoC in the first meeting held on 18th November, 2023 approved and confirmed the appointment of the Applicant as the Resolution Professional of the Corporate Debtor. The applicant has also conducted the CoC meetings from time to time to discuss each and every possibility to revive the Corporate Debtor and further update the progress in the CIRP of the CD to the CoC members. The applicant had conducted total five meetings of the CoC.
- (e) The applicant further submitted that the Progress Reports were filed before this Adjudicating Authority from time to time to update the ongoing CIRP process.
- (f) The applicant published **Form G** was published on 18th December, 2023 in the newspapers, namely, “*Business*



Standard” in English and *“Ekdin”* in Bengali inviting Expression of Interest (hereinafter referred to as **“EOI”**) from Prospective Resolution Applicants (hereinafter referred to as **“PRA”**). Since, no EOI was received, the CoC discussed over the matter in its third meeting on 16th January, 2024 and applicant re-issued **Form G** in the newspapers.

(g) Despite of issuance of **Form G** twice, no EOI was received by the applicant.

(h) That the applicant has appointed two (2) Registered Valuers, namely, Mr. Ankush Garg and Mr. Pranab Kumar Chakraborty were appointed to determine for ascertaining the Fair and liquidation value of Securities and Financial Assets of the Corporate Debtor. The Valuers have sent their respective Valuation Reports to the Applicant. As per the Valuation Reports, the Fair Value and Liquidation Value of the Corporate Debtor is as under: -

Particulars (Valuation Report)	Book Value (in INR)	Fair Value (in INR)	Liquidation Value (in INR)
Shri Pranab Kumar Chakraborty	39,69,49,203	12,07,703	7,703
Mr. Ankush Garg	39,69,49,204	7,704	7,704

(i) It is further submitted by the applicant that Mr. Abhijit & Associates, Chartered Accountants, appointed as the Transaction Auditor, has completed the Transaction Audit under the relevant provisions of the Code, for the period of



last 2 years. The applicant has received the Transaction Audit Report dated 05th April, 2024 wherein it is stated that none of the transactions during the relevant period, fall within the category of Preferential, Undervalued, Extortionate and Fraudulent transaction. The said report has been approved by the CoC with 100% voting share in the Fifth Meeting of CoC dated 16th April, 2024.

(j) Since 180 days of CIRP expired on 16th April, 2024 and no EOI & no Resolution Plan has been received by the applicant, the CoC in its Fifth Meeting on 16th April, 2024 resolved to submit an application before the Adjudicating Authority for initiation of Liquidation Process of the Corporate Debtor.

(k) The CoC in its Fifth Meeting in consultation with the applicant made a best estimate under Regulation 39B(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the amount required to meet Liquidation Costs, in the even an Order for Liquidation under Section 33 of the Code is passed, which is as under: -

Cost	Amount
Fees of Liquidator for the entire period of Liquidation Process	50,000/-
Cost of Public Announcement, etc.	10,000/-
Legal Charges	30,000/-
Other Expenses	10,000/-
Auditors Remuneration	10,000/-
Total	1,10,000/-



The CoC thereafter under Regulation 39B(2) of the CIRP Regulations made a best estimate of Rs. 6,007/- as value of Liquid Assets available to meet the estimated Liquidation Costs as aforesaid. Since, the estimated value of Liquid Assets under Regulation 39B(2) of the CIRP Regulations is less than the estimated Liquidation Costs under Regulation 39B(1), a plan under Regulation 39B(3) with respect to contribution for meeting the difference of Rs. 1,03,993/- between Liquidation Costs and Liquid Assets available and was proposed by the application in the Fifth Meeting of the CoC.

- (l) The CoC approved the said plan for contribution towards payment of the said differential amount of Rs. 1,03,993/- by 100% voting right in the Fifth Meeting of CoC.
 - (m) Since no Resolution Plan under Section 30(6) of the Code was received by the applicant and under the aforesaid facts and circumstances, the applicant states that Order for initiation of the Liquidation Process of the Corporate Debtor was required to be passed in the interest of the Corporate Debtor in conformity with the provisions of the Code.
5. Hence, the rival contentions were noted.
6. **Analysis and Findings:** -
- (a) We have considered the submission made by the Ld. Counsel and perused the record.
 - (b) Section 33(1) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor when there is a contravention of the approved Resolution Plan.



However, even before approval of the plan, Resolution failed due to reason mentioned in para's (i), (j) & (k) of this Order.

(c) Hence, we do find merit in the prayers made in **IA(IBC)(LIQ.)/14(KB)2024**, and deem it fit to order liquidation of the Corporate Debtor.

7. This Bench, therefore, hereby orders as follows: -

- a. Prayers as sought for in **IA(IBC)(LIQ.)/14(KB)2024** filed by RP, is allowed and **M/s. Manikaran Vincom Private limited**, the Corporate Debtor is ordered to be liquidated in terms of section 33(1) of the Code;
- b. **Ms. Brinda Bidasaria** having registration no. **IBBI/IPA-001/IP-P-02818/2023-2024/14329**, **email ID: cabrindadalmia@gmail.com**, **Mob. No: 9883339882** is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member;
- 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 newspapers 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 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.** In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.
- 8.** The application bearing **IA(IBC)(LIQ.)/14(KB)2024** shall stand **disposed of** in accordance with the above directions.
- 9.** List the main **C.P. (IB)/80(KB)2023** for reporting progress on **20.08.2024**.
- 10.** 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.



11. Certified copy of this Order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on: 05th of June, 2024.

Ar. [steno]