



DIVISION BENCH
COURT – I

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**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

C.P. (IB)/1275(KB)2019
IA(I.B.C)/1971(KB)2023

**CORAM: 1. HON'BLE MEMBER(J), Smt. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), Shri BALRAJ JOSHI**

IN THE MATTER OF	RELIANCE COMMERCIAL FINANCE LIMITED VS PRAPTI FASHIONS PRIVATE LIMITED
UNDER SECTION	IBC UNDER SEC 7

MENTIONING

1. This matter was not on board today and was taken up upon mentioning.
2. In the order dated 13th December, 2024 some corrections are as under:-
 - i. ***Page 5, paragraph 18 stands deleted***'.
 - ii. ***Page 6, paragraph 20 'Mr. Umesh Poddar' is hereby replaced with Mr. Partha Kamal Sen, Reg. No. IBBI/IPA-002/IP-N00022/2016-17/10049, e-mail: partha_kamal@yahoo.com***'.
3. Rest of the contents of the order shall remain unchanged.

**Balraj Joshi
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

Signed on 19/12/2024.

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -I)
KOLKATA**

IA(IBC)/1971(KB)2023
in
CP(IB)/1275(KB)2019

Under section 33(1) of the Insolvency & Bankruptcy Code, 2016

In the matter of:

Reliance Commercial Finance Ltd.

...Financial Creditor

Versus

Prapti Fashions Private Ltd.

...Corporate Debtor

And

In the matter of:

Ms. Meera Prasad , RP of Prapti Fashions Private Ltd.

... Applicant/Resolution Professional

Order pronounced on: 13/12/2024.

Coram:

Smt. Bidisha Banerjee

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

Appearances (through hybrid mode):

Mr.Rachit Lakhmani, Adv.

] For the RP

Ms.Pooja Saha,Adv.

]

Mr.Siddharth Makkar,Adv.

]

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.



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2. **IA(IBC)/1971(KB)2023-** is an application filed under section 33 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) by the Resolution Professional (“RP”) of Prapti Fashions Private Ltd., the Corporate Debtor, praying for initiation of liquidation process of the Corporate Debtor. This application is supported by an affidavit duly affirmed by the RP.

The Ld. Counsel appearing for the RP submits that :

3. This Adjudicating authority, on a petition filed u/s. 7 of the IBC read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Financial Creditor, *vide* order dated 18/10/2022 in CP (IB)/1275(KB)2019, had ordered initiation of Corporate Insolvency Resolution Process (“CIRP”) against Prapti Fashions Private Limited, the Corporate Debtor appointing Ms.Meera Prasad, as the Interim Resolution Professional (“IRP”). The said order was duly communicated to the IRP by the Registry.
4. It is submitted that the CIRP of the Corporate Debtor had commenced on 18/10/2022 as stated above. The Resolution Professional faced severe hardships in conducting the CIRP. The registered office of the Corporate Debtor was locked and sealed by the Kolkata Municipal Corporation (KMC), who was unwilling to cooperate and allow access to the sealed office. The Resolution Professional was constrained to approach this Adjudicating Authority for necessary orders for getting access to the office, and had filed IA /304/2023 for the said purpose and this IA was dismissed as withdrawn vide order dated 14/07/2023.
5. It is submitted that apart, the suspended directors of the Corporate Debtor has not been cooperating with the Resolution Professional and has instead been concealing details/information about the transactions of the Corporate Debtor and the bank accounts wherefrom the transactions of the Corporate Debtor were being carried out amongst other details/ information / data. For this reason, the Resolution Professional was constrained to prefer an application under Section



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19(2) of the IBC being IA No. 1588/2023, for extension of time, which was allowed and disposed of 05/10/2023.

6. It is submitted that challenges, difficulties as well as non-cooperation which was being faced by the Resolution Professional in the Corporate Debtor's CIRP was resulting in the CIRP taking a much longer duration. Accordingly, the applicant had also prayed before this Adjudicating Authority from time to time, for extension of the CIRP period, pursuant where to the CIRP period was extended from time to time by this Adjudicating Authority vide orders dated 16th May, 2023, 14th July, 2023 and 5th October, 2023.
7. In the course of CIRP, the Resolution Professional had issued an invitation for expression of interest in Form- G dated on 01/06/2023 under Regulation 36A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
8. In response thereto, an expression of interest was received by the Resolution Professional from one Devdarshan Designs Private Limited. The said prospective Resolution Applicant's credentials were duly scrutinized by the Resolution Professional declared the said prospective Resolution Applicant to be eligible and issued Request for Resolution Plan (RERP).
9. Thereafter, the said Resolution Applicant submitted its resolution plan dated 30/10/2023 before the Resolution Professional which was duly scrutinized in accordance with law and forwarded to the CoC for voting after having been declared to be in compliance with the provisions of IBC and the regulations framed thereunder.
10. It is submitted that during the CIRP of the Corporate Debtor, 10 (Ten) meetings of the CoC have been held. At the 10th CoC meeting held on 1st November, 2023, the CoC voted upon the resolution plan. The resolution plan could only get support of 29.41% of the voting share of the CoC and thus fell short of the



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required 66% voting share of the CoC, thereby not being passed by the CoC. The minutes of the meeting along with voting result in respect of the resolution for passing of the plan thereto are annexed as **Annexure-E**.

11. It is submitted that despite the Resolution Professional having undertaken all necessary steps in the CIRP of the Corporate Debtor and having scrutinized and declared a resolution plan as compliant, the CoC has refused to pass/ approve such resolution plan. The last date of CIRP being 15th November, 2023 has already passed. No resolution plan was passed by the CoC in the CIRP period. Consequently, no plan could be placed before this Adjudicating Authority for approval, during the CIRP period. There appears to be no further possibility of any resolution plan in respect of the Corporate Debtor.
12. That the Applicant had placed the Agenda No.1 of 13th meeting of CoC for Liquidation of the Corporate Debtor and she had sought the voting on same. The CoC took up the resolution for e voting and in the said resolution-

“ RESOLVE THAT, the Liquidation process be commenced against Prapti Fashions Private Limited considering that the Resolution Plan stands rejected by the Members of the CoC” ,was approved by 74.72% votes of the CoC.
13. In the above scenario, the applicant has filed the instant application being IA(IBC)/1971(KB)2023 under section 33(1) of the IBC seeking initiation of liquidation process against the Corporate Debtor.
14. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.



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15. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.
16. The Resolution Professional has accorded her consent to act as Liquidator of the Corporate in the instant matter.
17. The CoC has taken cognizance of the efforts of the Resolution Professional during the CIRP and agreed to the appointment of the Resolution Professional as Liquidator of the Corporate Debtor by observing in the minutes of the 10th CoC meeting as follows:-

“ The Chairman indicated that in case, if the plan is not approved and the CD goes into liquidation, the RP-Mrs. Meera Prasad has accorded her consent to act as the Liquidator in this matter. The CoC members noted the same. The CoC indicated that given the efforts taken by the RP to resolve the matter despite the substantial non-cooperation by the CD and its personnel, the RP was best poised to take the process further for fructification of the efforts. The CoC agreed that the RP continues to take the process forward, so that the knowledge gain thus far is retained and the liquidation could be completed expeditiously within the timelines.”

18. Thereafter, in the 13th meeting of CoC , The CoC has recommended the name of Mr. Umesh Poddar to be appointed as liquidator.

“ RESOLVED THAT Mr.Umesh Poddar, IP, [IBBI Reg. No. IBBI/IPA-001/IP-P01912/2019/2020/12962 // AFA- AA1/12962/02/300625/106986 valid till 20/06/2025 be and is hereby recommended to be appointed as the Liquidator in the matter of Prapti Fashions Private Limited”.

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

a. **IA(IBC)/1971(KB)2023** filed by Ms. Meera Prasad, RP/Applicant of Prapti Fashions Private Ltd., the Corporate Debtor, is **allowed**. Consequently, the



Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;

20. In view of the above, we hereby appoint *Mr. Umesh Poddar, Reg. No. IBBI/IPA-001/IP-P01912/2019/2020/12962*, as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019. The Liquidator is directed to submit his consent to act as Liquidator within 10 days of receipt of this order. The erstwhile RP shall handover all papers and documents in his possession concerning the Corporate Debtor to the Liquidator appointed in this matter within 10 days.

a. 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.

b. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., in “**Business Standard**” (English) in the National Edition and “**Ekdin**” in Vernacular Language i.e. Bengali stating that the Corporate Debtor is in liquidation.

c. 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.

d. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by her in managing the liquidation process of the Corporate Debtor.

e. On initiation of the liquidation process but subject to section 52 of the



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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.

f. 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.

g. 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 Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal.

21. The application bearing IA(IBC)/1971(KB)2023 shall stand disposed of in accordance with the above directions.
22. CP(IB)/1275(KB)2019 is to come up for filing of Periodical Progress Report on **17/01/2025**.
23. 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.
24. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 13th .day of Dec. 2024.

PJ