IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH-II

IA(CA)/97/KB/2025

in

TP.10/KB/2023

(Filed under Section 33 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016)

Mr. Asish Giria,
Resolution Professional of
M R Nirman Private Limited
Having its office at
Poddar Court, Gate No. 1,
Room No. 529B, 5th Floor, Kolkata-700001

... Applicant

In the matter of:

Deenanath Nandlal Patni

Operational Creditor

Versus

M R Nirman Private Limited

Corporate Debtor

CORAM

LABH SINGH, HON'BLE MEMBER (JUDICIAL)
REKHA KANTILAL SHAH, HON'BLE MEMBER (TECHNICAL)

Present:

For the applicant	Mr. Snehashish Chakraborty Ld. Advocate
For respondent	Mr. Avishek Guha Ld. Advocate Mr. Ankita Agrahari Ld. Advocate

Order Pronounced on: 13.11.2025

O R D ER

(Heard Through Hybrid Mode)

1. This is an application filed under Section 33 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 seeking reliefs as follows:

   a) Direction be passed initiating liquidation of the corporate applicant under Section 33 of IBC Code 2016;

   b) pass any other order/order(s) which this Tribunal may deem fit and proper.

2. Briefly stated, the facts of the present case are that the Corporate Insolvency Resolution Process (for short 'CIRP') of the Corporate Debtor was initiated on 05.9.2024 and the applicant was appointed as the Interim Resolution Professional (IRP). The Tribunal directed the IRP to make a

public announcement as per Section 33 of the IBC, 2016 and complete the assignment as required under law.

3. The Applicant submits that the public announcement, about initiation of the CIRP and calling for the claims, was published by the applicant being IRP on 08.9.2024 in English newspaper “Financial Express” and Bengali Newspaper “Ekdin” both dated 08.9.2024.

4. The applicant constituted CoC on the basis of claims received by him and the first meeting of the CoC was held on 04.10.2024. Thereafter, the applicant revised the list of creditors.

5. The applicant sought information and documents from the Suspended Board of Directors, but the Directors of Suspended Board did not provide complete information and documents; and hence, he filed an application no. 230/2024 before this Tribunal under Section 19(2) of the IBC 2016. The applicant brought these facts before the Tribunal by filing a second progress report.

6. The applicant appointed a valuer and prepared an information memorandum. The valuers sought information to proceed with and complete the valuation, but no such necessary

information was provided by the Suspended Board of Directors; and hence, the valuation process was held up.

7. It has further been averred that in 5th CoC meeting held on 07.02.2025, the applicant informed the CoC members about delay in valuation, publication of Form G, and other CIRP related issues due to non-cooperation by the Suspended Board of Directors and also appraised about pendency of the application filed under Section 19(2) of the IBC 2016. Ultimately this Tribunal, vide order dated 11.12.2024, directed the suspended Board of Directors to cooperate with the applicant. However, despite the order of this Tribunal, the Suspended Board of Directors did not cooperate with the applicant.

8. The CIRP process completion period p of 180 days expired on 04.03.2025. Consequently, the applicant sought extension of 90 days completion of the CIRP process beyond 180 days by filing an application being IA No. 43 of 2025. The said application was allowed by this Tribunal vide order dated 4th March 2025. The applicant, in total, has held six CoC meetings till date.

9. It has further been averred that the applicant has sent all relevant details to the Transaction Auditor in order to form his opinion and determine transactions covered under Section 43, 45, 50 and 66 of IBC, 2016. The applicant convened the 6th CoC meeting on 3rd April 2025. The applicant filed an application under Section 19 (2) of IBC, 2016 before this Tribunal for necessary directions in order to run the process in conformity with extant rules and regulations including the valuation process.

10. It has further been stated that the applicant in compliance of Regulation 36(A)1 published brief particulars of the invitation for the expression of interest (EOI) in Form G on 26th February 2025. However, no eligible EOI was received pursuant to the above EOI publication. The applicant, being Resolution Professional, is of the opinion that another effort should be made to seek resolution of the Corporate Debtor by CIRP process. Thus, during the 6th CoC meeting it was proposed before CoC to publish 2nd Form G inviting EOI. The CoC discussed the same and decided that the Company being not a going concern for a long period and no available tangible fixed assets, it appears that the prospect of

resolution is bleak and any further opportunity to publish Form G will result in increase of the CIRP cost and time. Therefore, the CoC, in the same meeting, accorded approval for liquidation of the Corporate Debtor since the Corporate Debtor has failed to attract any expression of interest for rehabilitating and/or reviving the Corporate Debtor. It was further resolved by the CoC that continuation of the CIRP process would only increase the CIRP costs.

11. Therefore, in view of the commercial decision of the Committee of Creditors, the present application has been filed praying for liquidation proceeding against the corporate debtor in accordance with Section 33 of the Insolvency & Bankruptcy Code, 2016. The present application deserves to be allowed.

12. Heard Ld. Counsel for parties. We have gone through the record of the present case. We have also appreciated the law applicable on the facts and circumstances of the present case.

13. It is observed from the minutes of 6th CoC meeting that UCO Bank, being the sole member of the CoC having 100% voting, has decided to liquidate the Corporate Debtor since the

Corporate Debtor has failed to attract any expression of interest for rehabilitation or revival. It was further resolved by the CoC that further continuation of the CIRP process would only increase the CIRP costs.

14. The Hon’ble Supreme Court in the matter of K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018 has held that the commercial decision of CoC is non-justiciable. In this case, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.

15. The CoC with requisite voting as given under section 33(2) of IBC, 2016 has approved Liquidation of Corporate Debtor in view of not getting any resolution plan. This Tribunal has very limited judicial review in such matters of commercial wisdom of the CoC; and therefore, this Bench allows the present application and pass order for liquidation of Corporate Debtor.

16. We hereby appoint Mr/s. Madhumita Karar, with Reg. No. IBBI/IPA-001/IP-P-02491/2021-2022/13821 as the Liquidator of the Corporate Debtor, to carry out the liquidation process subject to the following terms of the directions.

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon him.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.

d) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.

e) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section 35(1) of IBC, 2016 read with relevant rules and regulations and also file his response for disposal of any pending Company Applications during the process of liquidation.

f) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

15. The Registry is directed to communicate this order to the Registrar of Companies and to the Insolvency and Bankruptcy Board of India.

16. The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

17. Copy of this order be sent to the Financial Creditors, Corporate Debtor and the Liquidator for taking necessary

steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

18. With the above said directions, this IA(CA)/97/KB/2025 filed for Liquidation of the Corporate Debtor stands allowed.

REKHA KANTILAL SHAH	LABH SINGH
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)