IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH-II

IA(IBC)(LIQ)/01/KB/2025

in

CP(IB)/1852/KB/2019

(Filed under Section 33(1) (a), 33(2) & 34(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016)

Mr. Sandip Kumar Kejriwal,
Resolution Professional of
Indian Mining Works Private Limited

... Applicant

In the matter of:

Variant Commercial Private Limited

Vishwakarma, 86C, Topsia Road, Kolkata-700046

Financial Creditor

Versus

Indian Mining Works Private Limited

234/3A, AJC Bose Road, FMC Fotuna,

Unit A7, 3rd Floor, Kolkata, West Bengal-700020

CORAM
Mr. LABH SINGH, HON’BLE MEMBER (JUDICIAL)
Ms. REKHA KANTILAL SHAH, HON’BLE MEMBER (TECHNICAL)

IA(IBC)(LIQ)/01/KB/2025
in
CP(IB)/1852/KB/2019

Present:

For the applicant	Mr. Shaunak Mitra 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(1)(a), 33(2) & 34(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 seeking reliefs as follows:

   (a) pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in Chapter III of the IBC, 2016.

   (b) Pass an order appointing Sandeep Kumar Kejriwal as the Liquidator in the matter.

   (c) issue such order(s), direction/directions as this Tribunal may deem to be fit and proper in the interest of justice.

2. Briefly stated, the facts of the case are that the Corporate Insolvency Resolution Process (for short 'CIRP') of the Corporate Debtor was initiated on 24.02.2020 and the

applicant was appointed as the Interim Resolution Professional (IRP).

3. This Tribunal had directed the IRP to make public announcements and complete the assignment as required under law. The public announcement about initiation of the CIRP and calling of the claims was published by the applicant being IRP on 29.02.2020 in English and Bengali newspapers both dated 29.02.2020 and the last date of submission of claims was fixed on 13.3.2020.

4. The applicant, after collation of the claims as per provisions of the section 18(1)(c) of the IBC read with regulations, constituted the Committee of Creditors and filed a report certifying the constitution of CoC before this Tribunal on 18.3.2020 which was modified on 01.02.2021. The applicant conducted the first CoC meeting on 23.3.2020. The applicant, in total, conducted 23 CoC meetings on different dates till 11.11.2024.

5. The applicant had received only one resolution plan and placed the same before CoC for consideration. The said resolution plan was approved by the CoC with 100% voting in its meeting held on 04.7.2022 and thereafter, an application was filed with this Tribunal on 27.7.2022. This Tribunal rejected the resolution plan vide order dated 01.7.2024 on

IA No. 1132/KB/2022 and the order was communicated to the CoC.

6. Thereafter, the CoC meeting was held on 08.8.2024 to discuss the status of the main petition and other applications filed before this Tribunal and further course of action. The members of the CoC decided to seek instruction from their higher Authorities. The next CoC meeting was convened on 11.11.2024 to discuss the status of all the pending applications and future course of action. The members of the CoC were unable to take any decision in the meeting and sought time to discuss the matter with their higher authorities.

7. Thereafter, on 11.12.2024, the AXIS Bank, a member holding 75.3% share decided to initiate the liquidation process and SREI has not responded in this regard. Therefore, in view of rejection of the resolution plan by this Tribunal and opinion of the CoC in its 22nd and 23rd meeting, the CoC decided to liquidate the Corporate Debtor immediately and passed the necessary resolutions.

8. Therefore, the present application has been filed for commencement of the liquidation process of the Corporate Debtor.

9. Heard learned Counsel for the petitioner. We have perused the record of the present case. We have duly appreciated the law applicable on the facts and circumstances of the present application. The present application accompanies Form “H” which is a compliance certificate.

10. It is seen from the records that the Committee of Creditors, in which AXIS Bank holds majority share of 75.3%, in its meeting held on 14.8.2024 resolved to liquidate the Corporate Debtor; however, the SREI holding 24.7% share did not respond. Therefore, the CoC by majority has decided to liquidate the Corporate Debtor.

11. 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 the CoC with 75.3% majority voting has passed the resolution seeking liquidation of the Corporate Debtor.

12. The CoC with requisite voting as given under section 33(2) of IBC, 2016 has approved Liquidation of Corporate Debtor in view of rejection of the resolution plan by this Tribunal vide order dated 01.7.2024 on IA No. 1132/KB/2022. This Tribunal has very limited judicial review in such matters of commercial wisdom; and therefore, this Bench allows the

present application and pass order for liquidation of Corporate Debtor.

13. As a consequence, thereof, we order for the Liquidation of the Corporate Debtor as per Section 33(2) of IBC, 2016.

14. Mr. Sandeep Kumar Kejriwal has consented to act as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorisation for Assignment (AFA) for the said person is valid up to 30th June 2026.

15. We hereby appoint Mr. Sandeep Kumar Kejriwal, with Reg. No. IBBI/IPA-002/IP-N00236/2017-18/10687 (AFA valid till 30.06.2026) 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 relevant 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(IBC)(LIQ)/01/KB/2025 filed for Liquidation of the Corporate Debtor stands allowed.

REKHA KANTILAL SHAH
MEMBER (TECHNICAL)

LABH SINGH
MEMBER (JUDICIAL)