IN THE NATIONAL COMPANY LAW TRIBUNAL

DIVISION BENCH, COURT NO. I

KOLKATA

IA(IBC)(LIQ) No. 22/KB/2025

IN

CP(IB) No. 2137/KB/2019

An Application for initiation of Liquidation under Section 33 of the Insolvency and Bankruptcy Code, 2016

In The Matter Of:

Application under Section 33 of the Insolvency and Bankruptcy Code, 2016 for Roofers Infrastructure India Private Limited (in CIRP)

AND

In The Matter Of:

Samskar Financial Services Private Limited

.... Financial Creditor

Versus

Roofers Infrastructure India Private Limited

.... Corporate Debtor

AND

In The Matter Of:

Tapan Chakraborty

.... Resolution Professional/Applicant

Date of Pronouncement: 11/09/2026

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DIVISION BENCH, COURT NO. I
KOLKATA

IA(IBC)(LIQ) No. 22/KB/2025,

CP(IB) No. 2137/KB/2019

CORAM:

Smt. Bidisha Banerjee: Member (Judicial)

Ms. Rekha Kantilal Shah: Member (Technical)

Appearances:

For the Resolution Professional :

Mr. Jai Narayan Gupta, Adv.

Mr. Vishal Gupta, Adv.

Mr. Debanjan Das, Adv.

Ms. Tamaklika Das, Adv.

For the Respondent Nos.1 and 2:

Mr. Ashok Kumar Singh, Adv.

Mr. Madhusudan Sarder, Adv.

ORDER

Per: Smt. Bidisha Banerjee, Member (Judicial):

1. The court convened through hybrid mode.
2. Heard the Learned Counsels for both the parties.
3. This Application **IA(IBC)(LIQ) No. 22/KB/2025** has been filed by Mr. Tapan Chakraborty, the Resolution Professional of the Corporate Debtor before this Tribunal Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 seeking initiation of liquidation proceedings of the Corporate Debtor on the basis of the decision taken by the Committee of Creditor in the 4th CoC

meeting held on 07.11.2025 with 100% voting shares. The Applicant seeks the following reliefs:

a) *Allow the present application and pass an order for the initiating liquidation proceedings of the Roofers Infrastructure India Private Limited, under Section 33 of the Insolvency and Bankruptcy Code, 2016.*

b) *Pass such further or other orders as this Hon'ble Court may deem fit and proper.*

4. **Brief Background of the Case**

4.1. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process by the Hon'ble National Company Law Appellate Tribunal by an order dated 11.02. 2025.Subsequently this Bench, by order dated 26.02.2025, appointed Mr. Tapan Chakraborty as the Interim Resolution Professional (IRP).

4.2. The IRP in compliance with Regulation 6 of the CIRP Regulations, made public announcements in the prescribed Form A, in two newspapers, i.e. Morning India (Kolkata Edition, English) and Duranta Barta (Bengali Newspaper).

4.3. The IRP had also issued emails to the relevant statutory authorities as well as the financial creditors of the Corporate Debtor, inviting them to submit their claims.

4.4. On the same date, i.e., 07.03.2025, the IRP issued an email to. the members of the Suspended Board of Directors (SBoD) of the Corporate Debtor as well as their legal representatives seeking necessary information, cooperation, and access to books and records for conducting the CIRP. Despite reminders issued on 15.03.2025 and 24.03.2025, the SBoD failed to extend cooperation or provide the requisite information. Due to such non-cooperation, the Resolution Professional has filed IA/711/2025 before this Tribunal under Section 19(2) of the Insolvency and Bankruptcy Code, 2016, on 06.05.2025, seeking appropriate directions against the non-cooperating SBoD.

4.5. On 19.03.2025, the IRP submitted the report certifying the constitution of the Committee of Creditors (CoC) before the Adjudicating Authority in accordance with the Regulation 17(1) of the CIRP regulation and the CoC constitution or a sole secured Financial Creditor namely Samskar Financial Service Pvt Ltd with 100% voting rights.

4.6. The 1st meeting of the CoC was convened on 27.03.2025, wherein the CoC resolved to confirm the IRP as the Resolution Professional (RP).

4.7. During the claim submission window, the IRP received the following claims:

Sl. No.	Category	Claimant	Total Claim Received	Total Claim Admitted	Voting Percentage
1	Secured Financial Creditors	Samskar Financial Service Pvt Ltd	23,843,577	23,843,577	100%
2	Government Dues	Assistant Commissioner of Central GST and Central Excise, Kharagpur CGST Division, Haldia CGST and CX	2,406,701	2,406,701	NA

		Commissionerate, Kar Udyog Real Estate			
3	Government Dues	Employees State Insurance Corporation	796926	796926	NA
TOTAL			**27,047,204**	**26,803,694**	**100%**

4.8. During the course of CIRP, RP has come to know that the Financial Creditor, Samskar Financial Services Pvt Ltd., submitted relevant documents evidencing that six residential flats located at Kharagpur, West Bengal mortgaged in its favour by the Corporate Debtor as security for credit facilities availed, through two registered mortgage deeds dated 26.10.2018.

4.9. Upon visit by the Rp's representative they found these flats to be illegally occupied and accordingly eviction notice were issues to these illegal occupants.

4.10. In the 3rd CoC Meeting dated 14.07.2025, the CoC authorized the RP to seek a 90-day extension of the CIRP Period under Section 12(2) to accommodate the timelines pertaining to the Expression of Interest. The original 180-day period for CIRP was set to expire on 30.08.2025, the RP filed IA(IBC)/1346/2025 on 19.08.2025 seeking extension. The Tribunal, after hearing granted the requested extension.

4.11. Form-G was published on 09.07.2025 in one English and one vernacular newspaper. A number of entities expressed interest and raised queries, but no resolution applicant submitted the EMD or the requisite EOI, and consequently, no resolution plan was received for the Corporate Debtor.

4.12. In the absence of any viable resolution plan, the 4th CoC Meeting held on 07.11.2025 resolved, with 100% voting share, to initiate liquidation under Section 33 of the Code rather than proceeding with re-publication of the EOI under Regulation 36A. In the same meeting the CoC unanimously proposed the name of Mr. Tapan Chakraborty having IBBI Registration No. IBBI/IPA-003/IP-N00173/2018-19/12121, who is the current resolution professional of the Corporate Debtor, to be appointed as the Liquidator, which can be seen as below:

The corresponding resolution is as follows:

"**RESOLVED THAT** the CoC approves the re-publication of the Expression of Interest (EoI) as presented by the Resolution Professional for the Corporate Insolvency Resolution Process, in accordance with Regulation 36A of the CIRP Regulations and continue the resolution process."

Or

"**RESOLVED THAT** the CoC decides not to re-publish any Expression of Interest (EoI) and instead proceed with the liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016."

The sole financial creditor voted to liquidate the Corporate Debtor u/s 33 of the Code.

Further, in accordance with Section 34(1) of the Code, the RP, being eligible, has expressed his consent to act as the Liquidator of Roofers Infrastructure India Private Limited. The consent form of the said Insolvency Professional is attached herewith as **Annexure-A.**

The corresponding resolution is as follows:

"**RESOLVED THAT** the CoC has decided to propose the name of Mr. Tapan Chakraborty, bearing IBBI Registration No. IBBI/IPA-003/IP-N00173/2018-19/12121, who is the Resolution Professional of the Corporate Debtor, as the Liquidator."

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5. We have heard the arguments of the Learned Counsels appearing for both the Parties and perused the records carefully.
6. The Applicant has given his consent to act as the liquidator. However, the Insolvency and Bankruptcy Code (Amendment) Act, 2026 has substituted Section 34(4) of the Code with effect from 26.05.2026, which prohibits any Insolvency Professional who has acted as the Resolution Professional of the Corporate Debtor to further be appointed as the liquidator. The aforesaid provision is reproduced hereinbelow:

    *"**Section 34: Appointment of liquidator and fee to be paid***

    xxxx

    (4) Notwithstanding anything contained in this section and section 34A, <u>an insolvency professional appointed as a resolution professional</u> for the corporate insolvency resolution process under Chapter II, <u>shall not be appointed</u> or <u>replaced as the liquidator for the liquidation process of such corporate debtor</u>.

    ***xxxx**"*

7. Thus, despite furnishing his consent form to act as the Liquidator, Mr Tapan Chakraborty, the Applicant herein is ineligible to be appointed as the Liquidator of Roofers Infrastructure India Private Limited.

8. It is evident that after a considerable period from initiation of CIRP where there was no expression of interest from any interested resolution applicant the CoC went and decided to initiate liquidation process. At this Juncture it is pertinent to take a look at the decision of the Hon'ble Supreme Court in ***K. Sashidhar v. Indian Overseas Bank & Ors., (2019) ibclaw.in 08 SC*** :

    "33. <u>xxxxx upon receipt of a "rejected" resolution plan the adjudicating authority (NCLT) is not expected to do anything more;</u>

but is obligated to initiate liquidation process under Section 33(1) of the I&B Code. The legislature has not endowed the adjudicating authority (NCLT) with the jurisdiction or authority to analyse or evaluate the commercial decision of the CoC much less to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors. From the legislative history and the background in which the I&B Code has been enacted, it is noticed that a completely new approach has been adopted for speeding up the recovery of the debt due from the defaulting companies. In the new approach, there is a calm period followed by a swift resolution process to be completed within 270 days (outer limit) failing which, initiation of liquidation process has been made inevitable and mandatory. In the earlier regime, the corporate debtor could indefinitely continue to enjoy the protection given under Section 22 of Sick Industrial Companies Act, 1985 or under other such enactments which has now been forsaken. Besides, the commercial wisdom of the CoC has been given paramount status without any judicial intervention, for ensuring completion of the stated processes within the timelines prescribed by the I&B Code. There is an intrinsic assumption that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. The opinion on the subject matter expressed by them after due deliberations in the CoC meetings through voting, as per voting shares, is a collective business decision. The legislature, consciously, has not provided any ground to challenge the "commercial wisdom" of the individual financial creditors or their *collective decision before the adjudicating authority. That is made non-justiciable."*

(Emphasis Added)

9. The judgement categorically emphasizes that the Commercial Wisdom of the CoC is to be given paramount status and is non-justiciable. In the Present case the resolution to go into liquidation was taken consciously having noted no expression of interest against Form-G, this decision is not to be meddled by us as it a well-informed business decision of the CoC. Hence, we are of the view that the Liquidation process ought to be initiated against the Corporate Debtor.

10. Considering the above facts and circumstances, we hereby order as follows:

   a) **I.A. (IBC)(LIQ) No. 22/KB/2025** is allowed, and the Corporate Debtor is ordered to be liquidated in terms of Section 33 of the Code read with subsection (1) thereof;
   b) Since the Applicant cannot be appointed as the Liquidator in view of the prohibition under Section 34(4) of the Code, we hereby appoint Mr. Anil Kumar Muraraka, Registration Number: IBBI/IPA-002/IP-N01081/2021-2022/13630, Email: anilmurarka@gmail.com as the liquidator from the panel of Insolvency Professionals provided by IBBI. His appointment shall be subject 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, 2016. 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.

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 and conduct the process in scrupulous observation of the Code and connected Regulations as amended from time to time.

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) Every person who is or has been a personnel of the Corporate Debtor, or its promoter, or associated with the management of the Corporate Debtor, or engaged in a contract for service with the Corporate Debtor, shall extend all assistance and cooperation to the Liquidator.

g) After initiation of liquidation and subject to Section 52 of the Code, moratorium in terms of Section 33(1)(b)(iv) shall come into effect, prohibiting:

I. Institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority; and

II. Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

h) The provisions of Section 33(1)(b)(iv) shall however not apply to legal proceedings in relation to such transactions as may be notified by the

Central Government in consultation with any financial sector regulator or any other authority.

i) No suit or other legal proceeding shall be initiated, or if already pending on the date of this order, be continued by the Liquidator on behalf of the Corporate Debtor, except with the prior approval of the Committee of Creditors and the leave of the Adjudicating Authority, and subject to such conditions as may be imposed by the Adjudicating Authority.

j) 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.

k) The fees payable to the Liquidator shall be fixed by the Committee of Creditors in its first meeting after the appointment of the liquidator. If the Committee of Creditors fail to do so, the fees shall be payable in accordance with Regulation 4(2) of the IBBI (Liquidation Process) Regulations, 2016.

l) 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.

11. The application bearing **I.A. (IBC) (LIQ) NO. 22/KB/2025** shall stand **disposed of** in accordance with the above directions.

12. **C.P. (IB) No. 2137/KB/2019** is to come up for filing of Periodical Progress Report on **12/10/2026.**

13. 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.

14. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Ms. Rekha Kantilal Shah
Member (Judicial)

Smt. Bidisha Banerjee
Member (Judicial)

Signed on the **11th day of September 2026.**