

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

15. IA/1467/2021, IA/275/2022, IA/1548/2022,
IA/1610/2022 & IA/2661/2022 C.P. (IB)/1011(MB)2020

CORAM:

SMT. ANURADHA SANJAY BHATIA,
MEMBER (T)

SH. H. V. SUBBA RAO,
MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY
LAW TRIBUNAL ON **11.10.2022**.

NAME OF THE PARTIES: YES BANK LIMITED

Vs.

COX AND KINGS FINANCIAL SERVICE LIMITED
Jubilee Hills

SECTION: 7 & 60(5) Sec 33(1) (b) (i) to (iii) r/w Sec 33(3) of IBC 2016

ORDER

2661 of 2022- This is an Application filed under Section 66 of the Code seeking dismissal of the Applicant or in the alternative struck out the name of the Applicant. Since this Bench already admitted CP on 07th May 2021 and the CIRP process of the Corporate Debtor has commenced, the above IA cannot be entertained at this stage and the result of this, the above IA is **disposed of**.

1548 of 2022- This is an Application filed seeking liquidation of the Corporate Debtor. Detailed order would follow.

List the other IAs in CP on **01.12.2022**.

Sd/-
ANURADHA SANJAY BHATIA
Member(Technical)

Sd/-
H. V. SUBBA RAO
Member(Judicial)

/z/

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT V**

I.A. 1548 OF 2022

IN

CP (IB) – 1011/IBC/MB/2020

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

Filed by

Mr. Pardeep Kumar Sethi

Resolution Professional for:

Cox & Kings Financial Services Limited.

...Applicant

In the matter of

Yes Bank Limited

...Financial Creditor

Versus

Cox & Kings Financial Services Limited

...Corporate Debtor

Order Delivered On: 11.10.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance(Via Videoconferencing):

For the Applicant: Mr. Ayush J. Rajani a.w Khushboo Shah i/b AKR
Advisors, Authorised representative for the Resolution Professional

1. The above application I.A. No. 1548/2022 is filed by Resolution Professional, Mr. Pardeep Kumar Sethi (hereinafter referred to as the **“Applicant”**) seeking liquidation of Cox & Kings Financial Services Limited (hereinafter referred to as the **“Corporate Debtor”**) under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as **“the Code”**), praying for following reliefs:

- a. *Consider the present IA 1548 of 2022 filed under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 for Liquidation of the Corporate Debtor;*
- b. *Appoint the Applicant/Resolution Professional Mr. Pardeep Kumar Sethi bearing IBBI Registration No. BBI/IPA-001/IP-P00711/2017-2018/11265 as the Liquidator of the Corporate Debtor under Section 34(1) of the Code;*
- c. *Direct the Registry to communicate this order to the Registrar of Companies, Mumbai and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi;*
- d. *Consider declaring under Section 31(3)(a) of the Code that Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33(5) shall commence;*
- e. *Consider that this order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of I&B Code, 2016;*
- f. *Consider that no suit, prosecution or other legal proceeding shall lie against the Applicant being the Insolvency Professional for anything done or intended to be done in good faith under Section 233 of the Code;*
- g. *Issue such other order as the Hon’ble Tribunal may deem fit.*

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 07.05.2021 in Company Petition No. 1011/IBC/MB/2020 admitted the petition under Section 7 of the Code, filed by Yes Bank Limited (hereinafter referred to as the “**Financial Creditor**”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “**CIRP**”) was initiated against the Cox & Kings Financial Services Limited (hereinafter referred to as the “**Corporate Debtor**”). Mr. Pardeep Kumar Sethi was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
- B. Applicant submits that a Public Announcement in Form-A was made on 10.05.2021 in two newspapers viz. “Financial Express” and “Pudhari” thereby inviting claims from all the Creditors to be filed by 21.05.2021.
- C. On 01.06.2021, the 1st meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) was convened wherein the Applicant was appointed as the Resolution Professional, which is approved by 100% members voting in favour of the same.
- D. The Applicant further submits that, the Resolution was passed for appointment of registered valuers accordingly Resolution Professional has appointed two valuers as required under Regulation 27 of IBBI (IRP for corporate persons) Regulation, 2016.

- E. The Applicant had issued, Form-G, Inviting Expression of Interest (EOI), dated 20.07.2021, in which the last date of receipt of EOI was 04.08.2021 and the last date for the Submission of Resolution Plan was 19.09.2021.
- F. Pursuant to the above application, the Applicant submits that Expression of Interest were received from below mentioned Interested parties :
- I. Kundan Care Products Ltd.
 - II. Girdhari Sales Private Ltd.
 - III. RKG Fund – I (A Scheme if RKG Trust) managed by RKG Asset Management LLP
 - IV. Capital Trade Links Ltd.
- G. The Applicant submits that in the 4th CoC Meeting dated 12.10.2021, RP had received EMD of INR 500,000/- each from three Prospective Resolution Applicant (PRAs) namely:
- I. Kundan Care Products Ltd.
 - II. Girdhari Sales Private Ltd.
 - III. Capital Trade Links Ltd.
- The fourth PRA – RKG Asset Management LLP not willing to proceed ahead and accordingly had not submitted the EMD.
- H. The Applicant further submits that the last date to submit the Resolution Plans by PRAs was 14.10.2021 and considering that the accounts would take at least a month to get finalized, additional time of 45 days was provided to PRAs to submit the Resolution Plans. The same was recorded in the 4th COC meeting dated 12.10.2021.

- I. The Applicant submits that IA 2616 of 2021 filed before the Hon'ble NCLT for seeking an exclusion of period from 07.05.2021 to 14.06.2021 (38 days) from the period of Corporate Insolvency Resolution Process (CIRP) under section 60(5)(c) of the Code due to the lockdown in the state of Maharashtra, and subsequent extension of 90 days in terms of provisions of Section 12 of the Code. The said IA 2616 of 2021 was allowed by the Hon'ble Bench vide order dated 02.11.2021 and accordingly the revised 270th day of the CIRP was come to end on 11.03.2022.
- J. The Applicant submits that in the 5th CoC Meeting dated 22.11.2021, the CoC decided to provided additional time to PRAs to submit Resolution Plans. The last date for submission of Resolution Plan was extended further to 10.01.2022.
- K. The Applicant submits that in the 6th CoC Meeting dated 25.01.2022, the sole Member of CoC has extended the timeline for submit the Resolution Plan till 04.02.2022.
- L. The Applicant submits that in the 7th CoC Meeting dated 09.02.2022, two Resolution Plans from Girdhari Sales Pvt. Ltd. and Capital Trade Links Ltd were received and after detailed deliberation with the PRAs, the sole CoC member requested the PRAs to submit improved plan latest by 15.02.2022.
- M. The Applicant submits that during the 8th CoC Meeting dated 25.02.2022, the Applicant has received revised Resolution Plan from Capital Trade Links Ltd. Further, the Applicant submits that the other PRA i.e. Girdhari Sales Pvt. Ltd. has conveyed withdrawal of their plan vide email dated 22.02.2022

and requested refund if the Earnest Money Deposit of INR 5,00,000/-. Accordingly, the revised resolution plan received from Capital Trade Links Ltd. was put to vote for approval of the sole CoC Member. However, the sole CoC Member i.e. Yes Bank had rejected the said Revised Resolution Plan submitted by Capital Trade Links Ltd.

N. The Applicant submits that in the 9th COC Meeting dated 04.04.2022, the sole COC member with 100% voting decided to liquidate the Corporate Debtor as well as appointing the Applicant as the Liquidator of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator in writing dated 06.06.2022.

3. After hearing the submissions made by the authorised representative appearing for the Applicant and upon perusing the material available on record, the authorised representative for the Applicant submits that no viable Resolution Plan has been received and there is no option except to put the Corporate Debtor Company into Liquidation as per the Code.

Since it is observed from the minutes of the 9th COC meeting that the COC with required mandate of 100% voting approved to liquidate the Corporate Debtor in view of not getting any viable Resolution Plans, This Tribunal has very limited judicial review in such matters of commercial wisdom, therefore there is no option except to allow the above Liquidation Application. The COC thereby has appointed Mr. Pardeep Kumar Sethi (IBBI Registration No. BBI/IPA-001/IP-P00711/2017-2018/11265) as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The proposed Liquidator has

agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore feels this is a fit case for ordering Liquidation of the Corporate Debtor, Accordingly, the above Interlocutory Application Number 1548 of 2022 is allowed directing the Liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

1. The above I.A. No. 1548/2022 is allowed and the Corporate Debtor, Cox & Kings Financial Services Limited is ordered to be liquidated.
 - a. **Mr. Pardeep Kumar Sethi** having Registration No. IBBI Registration No. BBI/IPA-001/IP-P00711/2017-2018/11265, having office at: R B S A Restructuring Advisors L L P,1121, Building No.11, Solitaire Corporate Park, Andheri Kurla Road, Andheri East, Mumbai City - 400093, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
 - b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as under:

Sr. No.	Particulars	Amount (In INR)
1.	Monthly fees of the Liquidator	30,000/-
2.	Monthly fees of the Advisors	2,70,000/-
	Total	3,00,000/-

- c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- f. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. That on having liquidation process initiated, 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.

- h. 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.

With the above directions, this application i.e. I.A. No. 1548 of 2022 is hereby allowed and disposed of.

Sd/-

Anuradha Sanjay Bhatia
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)