

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

**IA(IBC)/688(KB)2022  
in  
CP(IB)/1074(KB)2019**

*Under section 33 of the Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

ICICI Bank Limited

.... Financial Creditor

*Versus*

Hindusthan Small Tools Private Limited  
(CIN: U22219WB1955PTC022547)

.... Corporate Debtor

*And*

*In the matter of:*

Kuldeep Verma,  
Resolution Professional of Hindusthan Small Tools Private Limited

... Applicant

**Order reserved on: 12/12/2022**

**Order pronounced on: 19/12/2022**

*Coram:*

**Smt. Bidisha Banerjee** : **Member (Judicial)**

**Shri Balraj Joshi** : **Member (Technical)**

*Appearances (through video conferencing):*

For RP : Mr. Rahul Auddy, Adv.  
Mr. Aditya Gooptu, Adv.

For R-1 in IA/526/2022 : Mr. Shaunak Mukhopadhyay, Adv.  
Mr. Vikas Baisya, Adv.

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For R-2 in IA/526/2022 : Ms. Tanvi Luhariwala, Adv.  
Mr. Ritoban Sarkar, Adv.  
Mr. A. Mukherjee, Adv.

For R-3 & R-4 in IA/526/2022 : Mr. Sourojit Dasgupta, Adv.  
Ms. Madhuja Barman, Adv.

For Proforma Respondent : Mr. Saubhik Chowdhury, Adv.  
Mr. Tirthankar Das, Adv.

### **ORDER**

***Per: Bidisha Banerjee, Member (Judicial)***

1. This Adjudicating Authority convened through hybrid mode.
2. IA(IBC)/688(KB)2022 is an application filed by the Resolution Professional (“**RP**”) of Hindusthan Small Tools Private Limited, the Corporate Debtor, praying for liquidation of the Corporate Debtor. This application is supported by an affidavit<sup>1</sup> duly affirmed by Mr. Kuldeep Verma, the RP.
3. This Adjudicating authority *vide* order<sup>2</sup> dated 14/01/2022 in CP(IB)/1074(KB)2019, had ordered initiation of CIRP against the Corporate Debtor. Mr. Kuldeep Verma was appointed as the Interim Resolution Professional (“**IRP**”). The said order was duly communicated to the IRP.
4. In terms of regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (in short, **Regulations 2016**), a Public Announcement<sup>3</sup> in **Form A** was published on 16/01/2022 in “*Financial Express*” (English) and “*Sukhabar*” (Bengali) inviting claim from the creditors.
5. A Committee of Creditors<sup>4</sup> (in short, “**CoC**”) was duly constituted on 03/02/2022, comprising of the lone petitioning financial creditor, ICICI Bank Limited, which was subsequently reconstituted on 11/03/2022 after receiving

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<sup>1</sup> At pages 18 to 20 of the application

<sup>2</sup> Form ‘H’ at pages 44 to 48 of the application

<sup>3</sup> Form ‘H’ at pages 44 to 48 & Averment in paragraph 2 at page 9 of the application

<sup>4</sup> Form ‘H’ at pages 44 to 48 & Averment in paragraph 4 at page 10 of the application

claim from M/s. Religare Finvest Limited. At its 1st meeting held on 10/02/2022, the CoC appointed the IRP as Resolution Professional<sup>5</sup>, which was recorded in the order dated 22/03/2022. Altogether seven CoC meetings were held by the IRP/RP. Registered Valuers<sup>6</sup> was duly appointed on 02/03/2022.

6. As per regulation 36A(1) of the said Regulations, 2016, **Form G**<sup>7</sup> was published on 29/03/2022 inviting Expression of Interest (in short **“EoI”**) from prospective resolution applicants (**“PRA”**). In response, three EoIs were received. However, out of the three PRAs only M/s. Prime Capital Market Limited submitted a Resolution Plan on 09/06/2022 and the EMD was submitted on 10/06/2022.
7. It is submitted by the Ld. Counsel that the CoC at its 5<sup>th</sup> meeting held on 13/06/2022, took note of the development and directed the RP to extend the timelines for submission of Resolution Plan to all the three PRAs to 17/06/2022. However, no new Resolution Plan/Revised Resolution Plan was received till 17/06/2022.
8. The Resolution Applicant, M/s. Prime Capital Market Limited was invited to the 6<sup>th</sup> CoC meeting held on 21/06/2022 with an opportunity to revise the bid value, since the bid value of Rs.1.75 Crore was too low. In response, the said M/s. Prime Capital Market Limited submitted a revised Resolution Plan dated 04/07/2022 along with an addendum dated 04/07/2022 enhancing the bid value of the Resolution Plan from Rs. 1.75 Crore to Rs. 3.01 Crore.
9. It is submitted by the Ld. Counsel appearing for the RP that at the 7<sup>th</sup> CoC meeting held on 04/07/2022, after taking on record the revised plan dated 04/07/2022, the matter was discussed and deliberated upon in details by the CoC. The members of CoC upon due deliberation, was of the opinion that since the revised Resolution Plan was only 7.16% of the total admitted claims of the

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<sup>5</sup> Form ‘H’ at pages 44 to 48 of the application

<sup>6</sup> Form ‘H’ at pages 44 to 48 & Averment in paragraph 6 at page 11 of the application

<sup>7</sup> Form ‘H’ at pages 44 to 48 & Averment in paragraph 8 at page 12 of the application

secured Financial Creditors, and the CoC costs were being met by the members of the CoC according to their voting percentage, an extension u/s 12 of the Code need not be undertaken. Thus, the resolution plan was put to e-voting by the RP as per directions of the CoC. The e-voting concluded on 13/07/2022 at 12.30 P.M. The CoC with 100% voting share passed following resolution recommending liquidation of the Corporate Debtor.

*“RESOLVED THAT the Corporate Debtor, Hindusthan Small Tolls Private Limited, be liquidated as per provisions contained in Chapter II of the Insolvency and Bankruptcy Code, 2016 and application Regulation thereon and that the Hon’ble Adjudicating Authority be informed of the decision of the Committee of the Creditors of the Corporate Debtor.”*

*“FURTHER RESOLVED THAT the Resolution Professional Mr. Kuldeep Verma is hereby directed to intimate, by way of application under section 33 of the IBC 2016, the decision of the Committee of Creditor of Corporate Debtor to recommend liquidation of the Corporate Debtor to Hon’ble Adjudicating Authority.”*

A copy of the minutes (without annexure) of the 7<sup>th</sup> meeting<sup>8</sup> of the CoC held on 04/07/2022 together with RP’s communication dated 13/07/2022 intimating decision of CoC by way of e-voting, forms **Annexure “A”** to the application.

10. It is submitted by the Ld. Counsel for the RP that the CoC has also proposed the continuation of the RP as the Liquidator. The applicant, accordingly, has submitted his consent letter<sup>9</sup> to act as Liquidator of the Corporate Debtor along with Authorisation for Assignment in Form B<sup>10</sup>. The RP had also submitted Compliance Certificate in Form H<sup>11</sup> as per provisions of the Code.
11. However, the 180 days CIRP period had expired on 13/07/2022 and there was no extension due to the decisions of the CoC.

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<sup>8</sup> Annexure “A” at pages 21 to 40 of the application

<sup>9</sup> Annexure “B” at pages 41 to 42 of the application

<sup>10</sup> Annexure “C” at pages 43 of the application

<sup>11</sup> Annexure “D” at pages 44 to 48 of the application

12. 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.
13. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.
14. This Bench, therefore, hereby orders as follows: -
  - a. IA(IBC)/688(KB)2022 filed by **Mr. Kuldeep Verma, RP of Hindusthan Small Tools Private Limited**, 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;
  - b. **Mr. Kuldeep Verma, RP [Reg. No. IBBI/IPA-001/IP-P00014/2016-2017/10038]**, having e-mail i.d. [kuverma@gmail.com](mailto:kuverma@gmail.com) mobile no. +91 98360 77900 is hereby appointed 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.
  - 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.
  - d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., "*Financial Express*" (English) "*Sukhabar*" (Bengali) 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. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.

h. 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.

i. 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**.

15. The application bearing **IA(IBC)/688(KB)2022** shall stand disposed of in accordance with the above directions.
16. **CP(IB)/1074(KB)2019** is to come up for filing of periodical progress report on **23/01/2023**.
17. 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.

18. 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 19<sup>th</sup> day of December, 2022.

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