



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI COURT-III**

**Item No.02**

IA-2299/2021  
In  
(IB) -889(ND)/2019

**IN THE MATTER OF:**

**Mr. SONAL ANAND**

**..... Operational Creditor**

**VERSUS**

**M/s. INTERNATIONAL TRENCHING PRIVATE LIMITED**

**..... Corporate Debtor**

**AND IN THE MATTER OF:**

**Mrs. DEEPIKA BHUGRA PRASAD**

Resolution Professional of M/s. International Trenching Private Limited

**..... Applicant**

**VERSUS**

**Mr. SUMIT BHASIN and Ors.**

**1. Mr. Sumit Bhasin**

**..... Respondent No. 1**

**2. Mr. Guneet Bhasin**

**..... Respondent No. 2**

**Order Pronounced On: 04.10.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant :

For the Respondents :

**ORDER**

Order pronounced in open court vide separate sheets. **IA-2299/2021** is  
**allowed**

-SD-

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

-SD-

**(BACHU VENKAT BALARAM DAS)  
MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI, COURT-III**

IA-2299/2021

In

(IB) –889(ND)/2019

Order under Section 33(1) of the Insolvency and Bankruptcy Code, 2016.

**IN THE MATTER OF:**

**Mr. SONAL ANAND**

**..... Operational Creditor**

**VERSUS**

**M/s. INTERNATIONAL TRENCHING PRIVATE LIMITED**

**..... Corporate Debtor**

**AND IN THE MATTER OF:**

**Mrs. DEEPIKA BHUGRA PRASAD**

Resolution Professional of M/s. International Trenching Private Limited

**..... Applicant**

**VERSUS**

**Mr. SUMIT BHASIN and Ors.**

1. Mr. Sumit Bhasin

**..... Respondent No. 1**

2. Mr. Guneet Bhasin

**..... Respondent No. 2**

**Order Pronounced On: 04.10.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER  
(JUDICIAL)**

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant : Mr. Gaurav Mitra, Mr. Aditya Gauri, Mr. Amar Vivek, Mr. Abhinav Tyagi, Advs.

For the Respondents :

**IA-2299/2021 In (IB) – 889(ND)/2019**  
**Date of Order: 04.10.2023**



## **ORDER**

### **PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

1. This Application has been filed by Mrs. Deepika Bhugra Prasad, the Resolution Professional of M/s. International Trenching Private Limited, the Corporate Debtor on 22.03.2021 before this Adjudicating Authority under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 ("IBC" or "Code") seeking initiation of liquidation proceedings of the Corporate Debtor on the basis of the decision taken by the Committee of Creditor ("CoC") in the 13<sup>th</sup> CoC meeting held on 12.03.2021, for seeking the following relief:

*"a) Allow the present Application;*

*b) Pass an Order directing the Corporate Debtor namely M/s. International Trenching Private Limited to be liquidated in the manner as laid down under Chapter III of the Insolvency and Bankruptcy Code, 2016;*

*c) Pass an Order appointing Mrs. Deepika Bhugra Prasad as the Liquidator of the Corporate Debtor;*

*d) Pass an Order declaring that the liquidator shall be paid fees in accordance with Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2017 for the purpose of Liquidation of the Corporate Debtor;*

*e) Direct that the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required in managing the affairs of the Corporate Debtor and in discharging his functions as specified under Section 35 of the Code;*

*f) Pass any other Order as this Hon'ble Tribunal may deem fit.*

*It is therefore respectfully prayed that this Application may kindly be allowed in the interest of justice, equity and fair play."*

2. (IB)-889/ND/2019 was filed by Mr. Sonal Anand ("Operational Creditor") to initiate Corporate Insolvency Resolution Process ("CIRP") against M/s. International Trenching Private Limited ("Corporate Debtor") under Section 9 of the Code before this Adjudicating Authority (Court-V). This Adjudicating Authority



(Court-V) vide order dated 08.08.2019 was pleased to admit the application and initiated CIRP against the Corporate Debtor and appointed the Interim Resolution Professional ("IRP"). Subsequently, the IRP was appointed as the Resolution Professional ("RP").

3. The IRP made a public announcement for the invitation of claims in Form-A dated 24.08.2019. Accordingly, the erstwhile IRP received claims from the Financial Creditor and Operational Creditor of the Corporate Debtor.
4. In the 1<sup>st</sup> Meeting of the Committee of Creditors (CoC) dated 21.09.2019, the CoC disapproved the resolution for the Appointment of IRP to RP with 100% votes.
5. The 2<sup>nd</sup> meeting of the CoC was held on 11.10.2019, wherein the erstwhile IRP appointed M/s. Mahesh and Co. to conduct the forensic audit of the accounts of the Corporate Debtor and the forensic Auditor submitted the Final Report on 31.05.2020. The erstwhile IRP also appointed Registered Valuers to conduct the valuation of the assets of the Corporate Debtor.
6. In the 4<sup>th</sup> Meeting of the CoC dated 17.12.2019 and in the 7<sup>th</sup> Meeting of the CoC dated 26.10.2020, the CoC members resolved to replace the erstwhile IRP and appoint the Applicant as the Resolution Professional of the Corporate Debtor. Thereafter, this Adjudicating Authority appointed the Applicant as the Resolution Professional vide Order dated 20.11.2020.
7. The IA-4959/2020 was filed for seeking exclusion of 252 days and an extension of CIRP by 90 days by the erstwhile IRP, which was allowed by this Adjudicating Authority vide Order dated 11.12.2020.
8. In the 8<sup>th</sup> meeting of CoC dated 08.12.2020, the IRP received one Expression of Interest along with the prescribed Earnest Money Deposit (EMD) of Rs. 2.5 Lakhs from one Prospective Resolution Applicant (PRA) namely M/s. Blue Planet Infra Private Limited. However, the PRA failed to submit the Resolution Plan on or



before the last date of the submission of the Resolution Plan i.e. 05.01.2020. Further, the CoC passed resolutions for the publication of fresh Form-G and for the extension of CIRP by another 60 days above and beyond 270 days that elapsed on 12.01.2020 which was allowed by this Adjudicating Authority. It is pertinent to mention that the Applicant published another Form-G on 15.12.2021.

9. In the 9<sup>th</sup> Meeting of the CoC held on 07.01.2021, the Applicant apprised the members that she is in receipt of four (4) Expression of Interest along with the prescribed Earnest Money Deposit (EMD) of Rs. 2.5 lakhs in the form of Demand Drafts. Further, the Applicant apprised the CoC members to publish a fresh Form-G with extended timelines so that possibilities to invite more PRA's could be explored. The CoC after deliberation decided that another Form G shall be published with extended timelines. Accordingly, the CoC in the 9<sup>th</sup> Meeting passed a resolution for re-publishing the Form-G. In pursuance of the said resolution, the Applicant re-published the Form-G on 12.01.2021 and the last date for receipt of the Resolution Plan was kept on 26.02.2021.
10. In the 11<sup>th</sup> Meeting of the CoC held on 03.03.2021, the Applicant apprised the members that she had received two Resolution Plans till the last date of the receipt of the Resolution Plan i.e. 26.02.2021. The resolution plans were submitted by M/s. Blue Planet Infra Developers Pvt. Ltd. and Mr. Sumit Bhasin (Joint Investors) and M/s Eventure Softsol Pvt. Ltd. (collectively to be referred to as 'PRA') respectively.
11. Further, considering the discrepancies in the valuation report, the Applicant proposed that another registered valuer be appointed who shall submit an estimate of the value of the Corporate Debtor. This was informed by the Applicant in the 12<sup>th</sup> CoC Meeting, the CoC appointed 3<sup>rd</sup> set of valuers for the purpose



of conducting the fair valuation of the Corporate Debtor in the present matter.

12. The Applicant further apprised the CoC members in the 12<sup>th</sup> CoC meeting that she issued RFRP and mandatory contents of the Resolution Plan were submitted by both the PRAs. Accordingly, the Financial Bid of both plans was presented in the meeting along with legal mapping and RFPF. The CoC members were of the opinion that the bid offered by both the PRAs was very low and the same can be considered only if the revision in the same is made. After due discussion and deliberation, the CoC members asked the PRA to revise their bid. The PRA informed the members that a revised bid shall be submitted by them in a day's time.
13. The 13<sup>th</sup> Meeting of CoC was held on 12.03.2021 wherein the Applicant apprised the members of the CoC that the e-voting on the Resolution Plans was concluded as on 12.03.2021 at 03:00 P.M. Further, the RP elucidated that none of the Resolution Plans were passed by majority votes and hence no Resolution Plans has been approved by the CoC. The plan of M/s. Blueplanet Infra developers and Mr. Sumit Bhasin (Joint Investors) received 7.29% votes, while the plan submitted by M/s. Eventure Softsol Private Limited received Zero (0)% votes. Therefore, both the plans could not receive the requisite 66% voting majority.
14. In the 13<sup>th</sup> Meeting of the CoC, the Applicant apprised the members as per Section 33 of the Code, in case no Resolution Plan under Section 30(6) of the Code is received to the Adjudicating Authority within the time period of CIRP of the Corporate Debtor, the natural outcome is liquidation of the Corporate Debtor. The Applicant further discussed the compliances as required under Regulation 39B, Regulation 39C and Regulation 39D of the CIRP Regulations in the 13th meeting of CoC which are as follows:



**Regulation 39B:** The estimated Liquidation cost of the Corporate Debtor is Rs. 23.21 Lakh.

**Regulation 39C:** It was duly discussed and decided in the meeting that the Corporate Debtor is recommended to be sold as a going concern and all the assets and liabilities would be grouped together to be sold as a going concern.

**Regulation 39D:** The members of the CoC decided that the fee of the Liquidator shall be in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016 with a cap of a minimum of Rs.1 Lakh per month for the purpose of Liquidation of the Corporate Debtor.

15. In view of the above facts and circumstances, we are satisfied that since no Resolution Plan was received to the Adjudicating Authority within the time period of CIRP of the Corporate Debtor. Hence, there is no other way to Liquidate the Corporate Debtor. Therefore, we are directing the Corporate Debtor to be liquidated in terms of Section 33(1) of the Code read with sub-clause (i) of clause (b). The present Application is being filed by the RP in the interest of justice and the same is bona fide in nature.

16. 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.

17. In light of the above facts and circumstances, it is hereby ordered as follows:

- i.** The **IA-2299/2021** filed by Mrs. Deepika Bhugra Prasad, the Resolution Professional of M/s. International Trenching Private Limited, the Corporate Debtor is **allowed**.
- ii.** The Insolvency and Bankruptcy Board of India ("IBBI") vide its circular number Liq-12011/214/2023-IBBI/840 dated



18/07/2023 in the exercise of its powers conferred under Section 34(4)(b) of the Code has recommended that an IP other than the RP/IRP may be appointed as Liquidator in all the cases where Liquidation order is passed henceforth and the Liquidator can be appointed from the panel list of the IBBI.

- iii.** Therefore, this Adjudicating Authority appoints Mr. Rabindra Kumar Mintri as the Liquidator of the Corporate Debtor from the available list of panel of Resolution Professionals/Liquidators as maintained by the IBBI. The Registration number of the Liquidator is IBBI/IPA-001/IP-P00707/2017-2018/11194, the address of the Liquidator is JD-18-B, Near Ashiana Chowk, Pitampura, National Capital Territory of Delhi, New Delhi -110034 and the e-mail id of the Liquidator is mintri\_ca@rediffmail.com.

Therefore, the Liquidator shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.

Accordingly, Mr. Rabindra Kumar Mintri is appointed as the Liquidator.

- iv.** Mrs. Deepika Bhugra Prasad, the Resolution Professional of the Corporate Debtor is relieved from the present assignment as the Resolution Professional. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed Liquidator forthwith.
- v.** The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the Liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceed of the Liquidation estate under Section 53 of the Code.



- vi.** The Liquidator shall initiate the Liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- vii.** Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in Liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the Liquidation order timely.

The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees can also be informed of this Liquidation order through their association.
- viii.** All the powers of the Board of Directors, and of key managerial personnel, shall cease to exist in accordance with Section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- ix.** The personnel of the Corporate Debtor are directed to extend all assistance and cooperation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.
- x.** The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Code shall commence. 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 the 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.

- xi.** 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.
- xii.** The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- xiii.** The Liquidator shall also follow up the pending applications for disposal during the process of Liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- xiv.** The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the Liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- xv.** The Liquidator and the Registry are hereby directed to send a copy of this order within 3 days from the date of this order to the Registrar of Companies, NCT of Delhi & Haryana. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
- xvi.** 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.



- xvii.** The Registry is further directed to send a copy of this order to the IBBI for their record.
- xviii.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
- No order as to costs.

**-SD-**

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

**-SD-**

**(BACHU VENKAT BALARAM DAS)  
MEMBER (JUDICIAL)**