



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

IA. No. 23/2024

**In
CP(IB)No.862/MB/CII/2019**

*Application filed under section 33(1) of Insolvency
and Bankruptcy Code, 2016*

**Mr. Prakash Kukreja, RP of
Vijaygroup Housing Private Limited.**

...Applicant

In the matter of

Gracious Communication Private Limited.

**...Operational Creditor
V/s**

Vijaygroup Housing Private Limited.

...Corporate Debtor

Order Pronounced on: 14.08.2024

Coram:

**Anil Raj Chellan : Kuldip Kumar Kareer
Member Technical : Member Judicial**

Appearances:

**For the Applicant : Ld. Sr. Adv. Gaurav Joshi a/w
Adv. Pratiksha Agrawal**



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ORDER

Per: Coram

1. It is an application filed u/s 33(1) of the Insolvency & Bankruptcy Code, 2016 (Code) by Mr. Prakash Kukreja Resolution Professional (RP) of Vijaygroup Housing Private Limited seeking liquidation order based on the resolution passed by the CoC in its 15th meeting held 16.12.2023.
2. On perusal of this application, it appears that CP No. (IB)-862(MB)/2019 was admitted by this Tribunal on 30.09.2022 and Mr. Alok Kumar Murarka was appointed as Interim Resolution Professional (IRP). Further, the CoC members filed an IA No. 242/2023, seeking replacement and the appointment of Mr. Prakash Kukreja as the RP of the Corporate Debtor. This Tribunal, in its discretion, considered the application and subsequently issued an order dated 15.03.2023 appointing Mr. Prakash Kukreja as the Resolution Professional of Corporate Debtor. Thereafter, IRP in compliance with section 13,15 and other applicable sections of the Code, published Form A issuing public announcement inviting claims from the Creditors of the Corporate Debtor and upon receipt of the claims, the CoC was constituted.
3. In the 2nd CoC meeting held on 25.11.2022, the IRP had invited Expression of Interest (EoI) from Prospective Resolution Applicants (PRAs) by publishing Form G on 02.12.2022.



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4. In the 4th CoC meeting held on 13.03.2023, the Applicant filed an IA 1935/2023 under Section 12 of the Insolvency and Bankruptcy Code (IBC) before this Tribunal, seeking a 90-day extension for CIRP of the Corporate Debtor. Additionally, the Applicant requested an exclusion of 52 days from 23.01.2023 to 15.03.2023. This Tribunal, through its order dated 15.05.2023, allowed IA 1935/2023.
5. In the 5th CoC meeting held on 07.04.2023, the CoC authorized the Applicant to Publish a fresh Form G dated 10.04.2023, with the aim of attracting a broader range of potential investors for the successful resolution of the Corporate Debtor.
6. Due to the increase in inquiries regarding the Expression of Interest (EoI) and the need for a process advisor to contact potential buyers, the CoC extended the deadline for submitting EoIs to 30.05.2023, as decided in the 6th CoC meeting held on 04.05.2023. Accordingly, this extension was officially announced in an addendum to Form G dated 11.05.2023.
7. Thereafter, some members of the CoC informed the Applicant that they were in discussions with certain real estate developers who might submit EoIs if given additional time. In response, the Applicant sought and obtained CoC approval via a circular resolution dated 30.05.2023, to extend the last date for submission of EoIs by 11 days i.e. up to 10.06.2023. Accordingly, Addendum II to Form G was published on 31.05.2023.
8. At the 7th CoC meeting on 7.06.2023, members requested an additional extension for the submission of EoIs to provide the process advisors with



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more time to market the project and reach out to the potential bidders. After detailed discussions, the CoC approved an extension of the EoI deadline to 20.06.2023. Accordingly, the Applicant issued Addendum III to Form G published on 09.06.2023.

9. The Applicant received EoIs from 19 different Prospective Resolution Applicants (PRAs), of which 18 were deemed eligible according to the CoC's criteria. Following a change in the consortium composition of one PRA, and with CoC approval, all 19 PRAs were included in the final list. According to Addendum III dated 9.06.2023, the deadline for submitting resolution plans was 5.07.2023. The Applicant provided the Request for Resolution Plan (RFRP) and the updated the Information Memorandum, approved by the CoC to the PRAs. The Information Memorandum was continuously updated and shared with PRAs.
10. The Applicant sought an extension for the submission of the resolution plan to 5.08.2023, in the light of additional time sought by some PRAs to complete their due diligence. This extension request potentially conflicted with the CIRP period stipulated by the order dated 24.03.2023, which was scheduled to conclude on 17.08.2023. Therefore, the requested extension necessitated a modification to align with the prescribed CIRP timeline. Accordingly, an IA No. 3546 of 2023 was filed seeking further extension of 60 days from 17.08.2023 and this Tribunal, vide order dated 11.08.2023, allowed IA 3546/2023.
11. In the 9th CoC meeting held on 31.07.2023, the Applicant informed the CoC that based on discussions with certain PRAs, there was a request



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for an extension of the deadline for submission of resolution plans by two to four weeks. After thorough deliberation, the CoC resolved to extend the deadline for resolution plan to 16.08.2023.

12. Thereafter, the Applicant received further extension requests from the PRAs and with CoC approval through a circular resolution on 11.08.2023, extended the deadline for submission of resolution plan from 16.08.2023 to 31.08.2023.
13. In the 10th CoC meeting held on 23.08.2023, based on additional requests from certain PRAs, the CoC resolved to further extend the deadline for submission of resolution plans to 21.09.2023.
14. Subsequently, two PRAs requested for further extension of the deadline for submitting resolution plans. The CoC approved these requests by an 80.95% majority, and the new deadline was set for 06.10.2023.
15. On 16.10.2023, the Applicant received a resolution plan and an EMD of Rs. 2 crores. A CoC meeting was held on 20.10.2023., where the Applicant shared this information and noted that a 60-day extension request was filed. The RA's representative presented an overview of the plan and the CoC members raised concerns about the financial outlay, requesting for an improved plan. The Applicant mentioned that the plan could be reviewed for compliance with IBC provisions and shared it with the CoC members.
16. During the 13th CoC meeting, the Applicant and the CoC aimed to conclude the resolution process by 10.11.2023. Despite multiple reminders, the RA did not submit a revised complaint resolution plan by



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that date. Consequently, following CoC's instructions and to achieve a resolution for all stakeholders, an extension was granted to the RA for submitting resolution plan by 11.12.2023. However, no revised and IBC complaint resolution plan had been received by the Applicant even on 11.12.2023.

17. In the 14th CoC meeting held on 11.12.2023, the CoC discussed the future course of action for the CIRP of the Corporate Debtor. The Applicant informed the CoC that no compliant resolution plan had been received from the RA by 11.12.2023. The RA's representative was invited to the meeting, and it was decided that a revised resolution plan must be submitted by midnight of 15.12.2023.
18. The Applicant received a revised resolution plan from the RA on 15.12.2023 and initiated a review of the Resolution Plan. A CoC meeting was held on 16.12.2023, where the key changes in the plan were discussed. The Representatives of the RA presented the plan, leading to a detailed discussion. During this meeting, two CoC members, Arcil and ABFL raised concerns regarding the financial viability of the Resolution Plan.
19. Initially when the resolution plan was received, the Applicant informed the CoC that the plan is not in compliance with the provisions of the Insolvency and Bankruptcy Code, 2016. The CoC decided to examine the financial proposal put forward in the resolution plan. However, the CoC came to the conclusion that the plan cannot be accepted for two reasons: -



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- a. The amount was too low and, therefore, it would not be commercially feasible for the Corporate Debtor.
- b. The Plan was not in compliance with the provisions of the Insolvency and Bankruptcy Code, 2016.

20. Voting on the resolutions proposed in the 15th CoC meeting concluded on 29.12.2023. It was found that the CoC did not approve the resolution plan and instead approved the liquidation of the Corporate Debtor, with a voting share of 82.92% and passed the following resolutions which is extracted below:

“RESOLVED THAT in view of having the CoC’s rejection on the commercial feasibility of the revised resolution plan as received by the PRA Mrs. Alpana Dangi on 15th Dec,23, by the vote of not less than sixty-six percent, with the requirements of Section 30(2) & 30(4) of the IBC within the insolvency resolution process period and the Committee of Creditors in exercise of its commercial wisdom and after considering various factors including those set out in Regulation 40D of the IBBI (Insolvency Resolution Process for Corporate Persons), 2016, consent of the members of the Committee of Creditors be and is hereby accorded to initiate liquidation process of Vijaygroup Housing Private Limited (“Corporate Debtor”) under Chapter III of the IBC and to appoint Mr. Ram Ratan Kanogoo (IP Reg No: IBBI/IPA-001/IP-P00070/2017-2018/10156) as the Liquidator of the Corporate Debtor and to authorize Mr. Prakash Kukreja as the Resolution Professional of the Corporate Debtor to file necessary application under Section 33(2) of the IBC and other provisions of IBC and applicable law, before the National Company Law, Mumbai for initiation of liquidation against the Corporate Debtor.”



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“FURTHER RESOLVED THAT the Resolution Professional be and is hereby authorized to take such steps, determine the scope of work and the terms of appointment as may be necessary for relation to the above, if required and to settle all matters arising out of and incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds, make payments and things that may be necessary, proper, expedient or incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds make payments and things that may be necessary, proper, expedient or incidental for the purpose of giving effect to the aforesaid resolution.”

21. After hearing the Counsel for the Applicant and examining the Petition, it is clear that CoC tried its level best to resolve the insolvency of the Corporate Debtor by way of a resolution plan. However, only one Resolution Plan was received, which was also found not viable and feasible with the result that the CoC decided to go ahead with the liquidation process. In the given circumstances, we are of the considered opinion that this is a fit case for liquidation. Therefore, we hereby order the liquidation of the company within the following terms:

- a. The **Mr. Ram Ratan Kanoongo**, holding Registration No. **IBBI/IPA-001/IP-P00070/2017-18/10156**, is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of



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Companies, Mumbai and to the Insolvency and Bankruptcy Board of India;

- c. 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;
- d. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. 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 and in accordance with the relevant rules and regulations.
- f. 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.
- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor if any as per law.



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- h. The Liquidator shall submit a 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;
- i. Copy of this order be sent to the financial creditors, corporate debtor, the Liquidator for taking necessary steps.

22. The **IA- 23/2024** filed by the RP for Liquidation of the Corporate Debtor stands **allowed accordingly in aforesaid terms.**

Sd/-

ANIL RAJ CHELLAN
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)