



**THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA(IBC)/2308 (CHE)/2023

In

CP(IB)/48(CHE)/2023

(filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

MR. RAVINDRA BELEYUR

Resolution Professional of
Reliable Cashew Company Pvt.td.
Ltd Having office at "Shreevathsa"
428, 19th B Cross, 3'd Block, Jayanagar,
Bangalore - 560 011

... Applicant

*Order Pronounced on **31st May 2024***

CORAM

**SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

Present:

*For Applicant : Mr. T.Ravichandran, Advocate
Mr.Ravindra Beleyur, Resolution Professional*

ORDER

(Hearing Conducted through Video Conferencing)

This Application has been filed under Section 33(2) of Insolvency and Bankruptcy Code, 2016 by Mr.Ravindra Beleyur, Resolution Professional of Reliable Cashew Company Private Limited (hereinafter referred to as "Corporate Debtor") seeking to order liquidation of the Corporate Debtor and to appoint him as a Liquidator of the Corporate Debtor.

2. It is stated in the application that CIRP in respect of the Corporate Debtor was initiated on 22.06.2023 and the



Applicant herein was appointed as the Interim Resolution Professional (IRP).

3. Pursuant to that the Applicant issued public announcement on 26.06.2023. In turn, the Applicant had received claims from the three Financial Creditors, after verifying their claims the IRP had constituted CoC in following composition,

S.No.	Name	Claim Amount admitted	Voting Share (%)
1	State Bank of India	86,04,05,200	74.974
2	Samunnati Financial Intermediation & Services Private Limited	7,08,88,558	6.177
3	IndusInd Bank Ltd	21,63,10,349	18.849
	Total	1,14,76,04,107	100.000

*As per claim records updated as on 9th October 2023

4. In the 1st meeting of the CoC held on 20.07.2023 the Applicant was confirmed as the Resolution Professional (RP). It is stated the Applicant had published Form-G on 08.08.2023 for inviting Expression of Interest (EoI). After the 3rd meeting of the CoC held on 02.09.2023, the Applicant issued information memorandum, evaluation matrix and Request for Resolution Plan (RFRP).

5. It is stated that only one Prospective Resolution Applicant (PRA) viz. Rare Asset Construction Limited had submitted the



Resolution Plan on 13.10.2023. The said Resolution Plan was discussed in the 4th meeting of the CoC held on 16.10.2023. The CoC treated Plan as Non-Responsive and has not accorded its approval and adjourned the meeting to 19.10.2023.

6. It is stated that on 19.10.2023 the CoC after deliberate discussions felt that there are no PRA available to take over the business of the Corporate Debtor and decided to liquidate the Corporate Debtor. Further in the said meeting the CoC with 100% voting resolved to liquidate the Corporate Debtor and to appoint the Applicant as the Liquidator of the Corporate Debtor.

7. It is stated that the Applicant had filed the following applications in terms of Regulation 35A, of the IBBI (CIRP Regulation, 2016.

Sl.No	IA No/ Filing NO.	Provision of the Code	Brief details of transactions	Parties
1	2166/2023	Section 66(1) of the Code	Issue regarding submission of False CA certificate to the Bank regarding confirming the receipt of 25 Cores as margin money	Sri Ravindra Beleyur vs Sri Shanthanu Malnad & 8 ors
2	IA/1809/2023	Section 66(1) of the Code	Fraudulent sale of a Flat owned by the Caproate Debtor	Sri Ravindra Beleyur vs Sri Shanthanu Malnad & 4 ors
3	IA/1810/2023	Section 66(1) of the Code	Fraudulent sale of a Flat owned by	Sri Ravindra Beleyur vs Sri Shanthanu



			the Caproate Debtor	Malnad & 5 ors
4	2299/2023	Section 66(2) of the Code	transaction under Section 66(2)- Wrongful Trading	Sri Ravindra Beleyur vs Sri Shanthanu Malnad & 7 ors
5	3305118/ 03420/ 2023	Section 66(1) of the Code	Transaction related with Inflated stocks and receivables in the stock and receivables statements submitted to the Financial Creditors	Sri Ravindra Beleyur vs Sri Shanthanu Malnad & 10 ors

8. Heard the submissions of the Ld. Counsel for the Applicant and perused the documents on record.

9. It is seen that the Corporate Debtor was admitted to CIRP on 22.06.2023. Till 19.10.2023 no viable Resolution Plan has come. It is also seen that in the 4th meeting of the CoC held on 19.10.2023 the CoC with 100% voting resolved to liquidate the Corporate Debtor. The relevant extract of the minutes is reproduced hereunder,

"RESOLVED THAT *Committee of Creditors of Reliable Cashew Company Private Limited under CIRP ('the Corporate Debtor') be and is hereby decided to initiate the Liquidation process of the Corporate Debtor in accordance with the provisions of Insolvency and Bankruptcy Code, 2016 and Regulations thereunder in view of following reasons:*

a) Though there were 2 EOI received in the Resolution Plan Process, only one Applicant had submitted a



Resolution Plan and that too was not in compliance of RFRP issued to the Resolution Applicant;

- b) There was no other serious interest shown by any entity to participate in the Resolution Plan Process any further;*
- c) The Company has not been operative since FY 2020-27 since there is no significant turnover for the said year and no turnover for the subsequent years; and most of the equipments are out dated and some plant & machinery is placed in leased premises; and*
- d) There are no employees / workmen on the rolls of the company.*

RESOLVED FIIRTHEER THAT, *the committee of Creditors of Reliable Cashew Company Private Limited be and is hereby authorise Sri. Ravindra Beleyur, Resolution Professional to submit necessary application to the Adjudicating Authority with respect to decision of the Committee of Creditors to Liquidate the Corporate Debtor for further approval by the Adjudicating Authority."*

The relevant voting pattern of the CoC is extracted hereunder,

*Reliable Cashew Company Private Limited under CIRP
Minutes of Adjourned 4th Meeting of the Committee of Creditors held on 19th
October 2023*

Details of E-voting Results are follows:

Particulars	CoC Members	% Voting Share	Status of Voting
Resolution No. 1 Approval for initiating the liquidation of the Reliable Cashew Company Private Limited	State Bank of India	74.974 %	Voted in "Favour"
	Samunnati Financial Intermediation & Services Private Limited	6.177 %	Voted in "Favour"
	IndusInd Bank Ltd	18.849 %	Voted in "Favour"

The resolution has been approved with 100% voting by CoC.



10. Section 33 of the Insolvency and Bankruptcy Code, stipulates as follows,

Section 33 (2)

"Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)."

11. It is seen from the resolution passed by CoC that the CoC is interested to sell the Corporate Debtor as going concern as per Regulation 32A of IBBI (Liquidation Process) Regulations, 2016. Form-H has also been placed on record.

12. Since, the CoC with 100% voting unanimously resolved to liquidate the Corporate Debtor. This Tribunal is left with no other option but to order liquidation of the Corporate Debtor. Accordingly we order liquidation of the Corporate Debtor.

13. It is also noticed from the minutes that the CoC has recommended Mr. Ravindra Beleyur (Applicant herein) to act as the Liquidator of the Corporate Debtor. However, the IBBI vide its notification bearing No. Liq-12011/214/2023-IBBI/840 dated 18.07.2023 has recommended that the person other than IRP/RP



of the Corporate Debtor to be appointed as the Liquidator in the case of liquidation the Corporate Debtor.

14. In the circumstances, we appoint **Mr.SUDHIR GS** Resolution Professional (**e-mail: sudhircaip@gmail.com**) bearing **Reg No. IBBI/IPA001/IP-P02744/2022-2023/14183** having AFA valid till **18.09.2024** as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation



to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

- e) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- f) 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.
- g) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- h) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.



- i) The Liquidator directed explore the possibilities of selling the Corporate Debtor as the going concern.
- j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

15. The application **IA(IBC)/2308(CHE)/2023** stands **allowed** with the aforesaid directions.

16. The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;

Sd/-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

Sd/-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)