

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH(COURT-I), KOLKATA**

IA (IB) No. 57/KB/2023

in

CP (IB) No. 197/KB/2021

*An Application under section 33(1)(a) of Insolvency & Bankruptcy Code, 2016.*

*In the matter of*

**Viom Infra Venture Limited**

*...Operational Creditor*

versus

**Bahula Infotech Private Limited**

*...Corporate Debtor*

*-And-*

*In the matter of:*

Mr. Anneel Saraogi, Resolution Professional of Bahula Infotech Private Limited

... Resolution Professional / Applicant

***Coram:***

**Shri Rohit Kapoor, Member (Judicial)**

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

***Appearances (through video conferencing):***

**For the Resolution Professional / Applicant**

1. Mr. Meenakshi Manot, Adv.

**Reserved for orders dated : 16.01.2023**

**Pronouncement of order dated : 22.08.2023**

**ORDER**

***Per Balraj Joshi, Member (Technical):***

1. This is an application filed by the Insolvency Professional upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, viz., Bahula Infotech Private Limited

[CIN:U72900WB2014PTC199722], on the ground that no resolution plan was received by the Resolution Professional.

2. This Adjudicating Authority vide its order dated 18.04.2022 on a Petition filed by the Viom Infra Venture Limited(‘Operational Creditor’) under section 9 of the Insolvency and Bankruptcy Code, 2016 (‘the Code’), directed initiation of the Corporate Insolvency Resolution Process (‘CIRP’) against the Corporate Debtor and appointed Mr. Aneel Saraogi as the Interim Resolution Professional (‘IRP’). The IRP was later appointed as the Resolution Professional (‘RP’).
3. In the 1<sup>st</sup> CoC Meeting held on May 13, 2022, wherein the appointment of the applicant was confirmed as the Resolution Professional (hereinafter referred to as “RP”). Thereafter the applicant has filed 1<sup>st</sup> Progress Report on 20.07.2022.
4. As per Section 25(2)(h) of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016), Form G for invitation of Expression of Interest was originally issued by the Applicant on 02.07.2022, but no EOI was received as on last date of EOI was 17.07.2022. On 01.08.2022, the Form G was reissued in the leading newspapers for inviting the Resolution Plan from the interest eligible candidates, wherein one perspective bidder namely Quantta Analytics Private Limited had shown their interest in submitting EOI. However, the Prospective Bidder failed to submit the Resolution Plan.
5. In the 4<sup>th</sup> CoC meeting held on 17.09.2022, it was averred that the applicant had received only one EOI for submission of Resolution Plan by Quantta Analytics Private Limited and provisional or final list has been issued accordingly. Further, the members were requested to note that the last date of submission of Resolution Plan as per Form G is 30<sup>th</sup> September, 2022.
6. Thereafter, an application was filed vide IA(IB)1114/KB/2022 before this tribunal praying for 90 days further extension to be calculated from 14th October and thereafter, as prayed for, this Tribunal granted 90 days extension of CIRP period upto 08.01.2023.

7. Thereafter, in the 8th CoC meeting held on 02.01.2023, it was noted that the Applicant had not been received any resolution plan from any of the Prospective Resolution Applicants (PRAs), but one PRA, namely Quantta Analytics Private Limited has asked for further time for submitting Resolution Plan. But CoC had decided that as no resolution plan has been submitted till now and the CIRP period is also getting over by 08.01.2023, further extension of time would not be a wise decision as being provided so much extension of time, no PRAs have submitted any Resolution Plan, and in the said 8th CoC Meeting it was decided by the CoC to liquidate the company under Section 33(1)(a) of the IBC, 2016 since there was no Resolution Plan for consideration within the maximum permitted CIRP period.
8. Hence, the RP has filed an application under section 33 of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor.
9. That the CoC has passed resolution by 100% voting shares that the Corporate Debtor be liquidated under the provisions of section 33(2) of the Code.
10. IBBI Circular dated 18th July, 2023, it was decided that in cases where the CD has not been successfully, resolved or resolution plan has been failed, IP who has been assigned to conduct the resolution process of the CD, may not be recommended to continue to act as Liquidator to carry on the process of liquidation under Regulation 3(1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Therefore, the Applicant being the RP of Bahula Infotech Private Limited would not be recommended as Liquidator.
11. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.
12. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating Authority of the decision of the

CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.

13. This Bench, therefore, hereby orders as follows: -

- a. Prayers as sought for in I.A. (IB) No. 57/KB/2023 filed by Mr. Aneel Saraogi, RP of Bahula Infotech Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
- b. **Ms. Rashmi Chhawchharia** having **Regn. No. IBBI/IPA-001/IP-P-02016/2020-2021/13148** having email address: [rashmi.chhawchharia@gmail.com](mailto:rashmi.chhawchharia@gmail.com), is hereby appointed as Liquidator as provided under section 34(1) of the Code.
- 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) and Aajkaal (Bengali) (Kolkata edition), 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, Kolkata, 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, Kolkata.

14. The application bearing IA (IB) No. 57/KB/2023 shall stand disposed of in accordance with the above directions.

15. 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.

16. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

17. List the main **CP (IB) No. 197/KB/2021** for reporting progress on **10.10.2023**.

**(Balraj Joshi)**  
**Member (Technical)**

**(Rohit Kapoor)**  
**Member (Judicial)**

Signed on this, the 22<sup>nd</sup> day of August, 2023.

M. Jana, PS