

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

**IA 2749/MB/C-II/2019**

**In**

**CP (IB) 292/MB/C-II/2018**

Under section 33 of the Insolvency  
and Bankruptcy Code, 2016 seeking  
Liquidation of the Corporate Debtor.

**Jitendra Palande**

**Resolution Professional,**

Forever Entertainment Private  
Limited, IBBI/IPA-003/IP-00028/  
2017-18/10188 New Ajanta Avenue,  
5-3/D, #38 Paud Road, Kothrud,  
Pune – 411038.

**...Applicant**

*In the matter of*

**Mr. Rajendra Bandal**

...Original Petitioner /Financial  
Creditor

Vs

**Forever Entertainment Private  
Limited**

...Original Respondent /Corporate  
Debtor

**Order Delivered on 03.06.2021**

***Coram:***

Mr. H. P. Chaturvedi : Hon'ble Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019  
In  
CP (IB) 292/MB/C-II/2018

Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

***Appearances:***

For the Resolution Professional : Mr. Jitendra Palande, RP in Person

**ORDER**

***Per: H.P. Chaturvedi, Member (Judicial)***

1. The IA 2749 of 2019 is moved by **Mr. Jitendra Palande** (hereinafter called as “Resolution Professional”) **Under section 33 of the Insolvency and Bankruptcy Code, 2016 seeking Liquidation of the Corporate Debtor, Forever Entertainment Private Limited** (hereinafter called as the “Corporate Debtor”).

Summary of Reliefs and Extension sought by IA 2749 of 2019:

- a. Pass appropriate directions thereby effecting liquidation of the assets of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016; and/or
- b. Pass necessary direction to the applicant thereby relieving and discharging him from all functions and duties as RP, provided under the code.
- c. Pass necessary directions, as may be deemed fit by this Hon'ble Tribunal to the applicant until the order of liquidation is passed by this Hon'ble Tribunal.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019

In  
CP (IB) 292/MB/C-II/2018

- d. The RP may kindly be appointed as the Liquidator in respect of the assets of the Corporate Debtor,
  - e. Pass appropriate directions to the members of COC to contribute their respective share in CIRP Cost immediately.
  - f. Pass necessary directions and adjudicate the Liquidators Fee
  - g. Pass any other order(s) that this Hon'ble Adjudicating Authority may deem fit and proper in the interest of justice.
2. The Resolution Professional of the Corporate Debtor who had been appointed as Interim Resolution Professional of the Corporate Debtor vide Order dated 21 January, 2019 by this Bench. He was subsequently appointed as the RP in the first meeting of the CoC held on 02 March 2019.

**Submissions made by the Resolution Professional in IA 2749 of 2019:**

3. The Corporate Insolvency Resolution Process (CIRP) commenced on January 21, 2019 and 180 days were over on July 20, 2019. A total of 5 meetings of the Committee of Creditors (COC) were held. The COC comprised of the Secured Financial Creditors with voting share of 47.59% and Unsecured Financial Creditors with voting share of 52.41%. Two prospective Resolution Applicants (RAs) which were shortlisted in the final

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019  
In  
CP (IB) 292/MB/C-II/2018

list of Prospective Resolution Applicants during the course of CIRP conveyed to RP/Applicant after the 4<sup>th</sup> COC meeting that they are not interested in submitting resolution plans.

4. Thereafter, COC had unanimously voted for CIRP extension during 4<sup>th</sup> COC meeting held on June 29, 2019 for giving more time to prospective RA to submit their resolution plans. However, immediately after the fourth COC meeting, the RA conveyed to the RP that they have withdrawn from this CIRP and that they would not be interested in submitting resolution plans. Main reasons for their withdrawal are as under.
  - i. The RAs are not in a position to estimate this cost because certain risks are future risks and they are completely unknown.
  - ii. Directors of the corporate debtor (CD) have not maintained books of accounts at all and there are no audited balance sheets. Future litigations are unknown.
  - iii. Only partially constructed building is owned by the CD. Land doesn't belong to the CD. No resolution plan can be submitted for just the building.
  - iv. Litigations created by the secured financial creditors who are the applicants of MA 3304.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019

In  
CP (IB) 292/MB/C-II/2018

This being a serious development, RP was duty-bound to convey the same to the COC and discuss the situation arising out of it. Hence the RP convened fifth COC meeting.

100% of the COC participated in the fifth COC meeting and voted on the resolution to reconsider the decision of CIRP extension taken earlier. *[See Item No.4 & 5 of Minutes of Meeting @ Pg. 48-49 of Miscellaneous Application No. 2749 of 2019 filed by the Applicant]*

Following is the voting result when the matter of CIRP extension by 90 days was put to vote in 5<sup>th</sup> COC meeting:

Secured Creditors	47.59%	Voted in favour of Extension
Unsecured Financial Creditors	52.41%	<b>Voted against Extension</b>
Total	100%	

Since, the COC could not gather requisite voting percentage of 66% as mandated under IBC for CIRP extension, RP/Applicant filed an application for liquidation as a natural consequence of operation of law.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019  
In  
CP (IB) 292/MB/C-II/2018

5. Pursuant to section 34(1) of the Code, the RP appointed for the CIRP shall act as liquidator for the purpose of liquidation unless replaced by Hon'ble AA under sub-section (4).

As per the minutes of the 5th COC meeting, the CoC resolved that the RP be appointed as Liquidator as per the provisions of section 34(1) of the Code. *[See Item No.5 of Minutes of Meeting @ Pg. 49 of Miscellaneous Application No. 2749 of 2019 filed by the Applicant]*

The relevant extract of Item No. 5 of Minutes of Meeting of 5<sup>th</sup> COC meeting is as below:

*“The CoC RESOLVED to not seek extension of CIRP.  
The CoC RESOLVED to propose that RP be appointed  
as Liquidator as per the provisions of the Code.”*

6. Further Resolution Professional submitted that Unpaid CIRP cost from January 21, 2019 till date is Rs. 60 Lakh which includes the fees of IRP as well RP along with other professionals, security, public announcements, valuer fees, COC meeting expenses, legal cost, and dewatering and maintenance work carried out at the premises of the corporate debtor.
7. As discussed above though initially some of the prospective Resolution Applicants shown interest, however, the same could

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019

In  
CP (IB) 292/MB/C-II/2018

not fructify and no formal Resolution Plan is in the hands of CoC to decide on the same.

8. In view of the foregoing submissions, the Liquidation of the CD is by virtue of natural consequence of operation of law as the CoC could not gather requisite voting 66% for extension and hence the MA 2749 of 2019 filed by the RP/Applicant be allowed.
9. In view of the facts and circumstances, we have no other option but to admit the Corporate Debtor for liquidation and initiate liquidation proceedings as per law.
10. Further, with regard to the appointment of the liquidator, the existing RP Mr. Jitendra Palande had expressed his interest to act as liquidator and CoC in its 5<sup>th</sup> meeting decided to propose the RP as Liquidator.
11. Considering above facts and circumstances, this Adjudicating Authority hereby Orders that:
  - i. The Process of Liquidation of the Corporate Debtor 'Forever Entertainment Private Limited' shall commence as per the Chapter III of the I&B Code from the date of this Order.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019

In  
CP (IB) 292/MB/C-II/2018

- ii. Applicant, RP Mr. Jitendra Palande, having IBBI Registration No: IBBI/IPA-003/IP-N00028/2017-18/10188 is hereby appointed as a “Liquidator” as per the provisions of Sec. 34 of the I&B Code.
  - iii. In view of the difference of opinion between RP and members of CoC in the past as brought in another IA filed by Secured Financial Creditors, RP is advised to act in the best interest of the Corporate Debtor and in compliance with the provisions of the Code as well as IBBI (Liquidation Process) Regulations, 2016.
  - iv. The Liquidator shall advertise in two Newspapers, one in English language and one in Regional Language about the Liquidation of the Corporate Debtor as per the provisions of the I&B Code.
  - v. Copy of this Order shall be forwarded to the Concerned Authority with which the Corporate Debtor is Registered.
12. This order for liquidation shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

IA 2749/MB/C-II/2019 and  
IA 3304/MB/C-II/2019  
In  
CP (IB) 292/MB/C-II/2018

13. The fees payable to the Liquidator shall be in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016.
14. The Liquidator shall submit progress reports as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016.
15. The Liquidator is at liberty to seek any directions, if need be, from this Adjudicating Authority during the Liquidation Process.
16. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
17. IA 2749 of 2019 for Liquidation U/s. 33 (1) (a) is Allowed as indicated above.
18. Ordered Accordingly.

**Sd/-**

**RAVIKUMAR DURAISAMY**  
**Member (Technical)**

**03.06.2021**  
**SAM**

**Sd/-**

**H.P. CHATURVEDI**  
**Member (Judicial)**