

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI, COURT-VI  
SPECIAL BENCH

IA 130/MB/2020 IN CP (IB) No.3912/MB/2018

[Under Section 33(1)(a)(i) and other applicable provisions of Insolvency &  
Bankruptcy Code, 2016 r/w Rule 11 of the NCLT Rules 2016]

**MR. SUDIP BHATTACHARYA**

**[Resolution Professional of Yyavi Traders Limited]**

903 Queensgate, Hiranandani Estate

Off Ghodbander Road, Thane West- 400607

Maharashtra.

.....Applicant/Resolution Professional

IN THE MATTER OF

**YYAVI TRADERS LIMITED**

[CIN: U74110MH1992PLC069449]

**Registered Office:** Magan Baug, Room No.104

Sun Mill Road, Lower Parel, Mumbai- 400013

Maharashtra.

...Corporate Debtor

**Pronounced: 24.02.2025**

**CORAM:**

**HON'BLE SHRI K. R. SAJI KUMAR, MEMBER (JUDICIAL)**

**HON'BLE SMT. MADHU SINHA, MEMBER (TECHNICAL)**

**Appearances: Hybrid**

For Applicant

: Adv. T.N. Chandrassekar.

**IA 130/MB/2020**

**ORDER**

**1. BACKGROUND**

1.1 This is an IA No. 130/MB/2020, filed by Mr. Sudip Bhattacharya, Resolution Professional, (Applicant/RP) on 10.01.2020, seeking Liquidation of Yyavi Traders Limited (Corporate Debtor/CD) under Sections 33(1)(a)(i), 34 and 35 r/w Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC) and Rule 11 of the NCLT Rules, 2016. The Applicant prays for an order of liquidation of the CD and appointment of the Applicant as the Liquidator, as approved by the Committee of Creditors (CoC) in its 4<sup>th</sup> meeting held on 10.12.2019. The Applicant further prays that although he has given his consent as annexed to this Application, either he or any other appropriate person may be appointed as liquidator as deemed fit by this Tribunal.

**2. CONTENTIONS OF APPLICANT/FC**

2.1 The Corporate Insolvency Resolution Process (CIRP) of the CD was initiated by this Tribunal *vide* its order dated 11.06.2019 in CP(IB) No. 3912 of 2018, upon admission of the same under Section 10 of the IBC, and the Applicant was appointed as the Interim Resolution Professional

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(IRP) for the CIRP of the CD and a moratorium under Section 14 of the IBC was ordered.

- 2.2 Subsequently, the Applicant made public announcement on 15.06.2019, inviting claims from all creditors. Copies of the public announcement in newspapers is annexed with this IA.
- 2.3 The Applicant informed the erstwhile Board of Directors of the commencement of CIRP and his appointment as the IRP, instructing them to hand over control and custody of the CD's assets. The Applicant thereafter filed progress report on 01.09.2019 with this Tribunal, certifying the constitution of the CoC and collation of claims by the creditors as of 30.06.2019.
- 2.4 The Applicant was confirmed as the RP in the first meeting of the CoC held on 13.07.2019, with the management of the affairs of the CD being vested in the Applicant as the RP. A total of four CoC meetings were conducted during the CIRP, with the first meeting on 13.07.2019 and the last meeting on 10.12.2019. The Applicant states that the last date for receipt of claims from the creditors was 26.06.2019 as per the public announcement. Claims received up to 30.06.2019 have been collated and verified based on the information submitted along with the claim form and the same were also collated. There are no secured financial creditors for the CD. The claims of the unsecured financial creditors are as under:

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S.No.	Name of Financial Creditors	Amount Claimed (Rs.)	Claim as per books of CD (Rs.)	Amount Admitted (Rs.)	Voting share (%)
1.	Alliance Mall Development Coop. Ltd.	9,86,37,217/-	9,12,46,269/-	9,86,37,717/-	48.18
2.	Hagwood Commercial Pvt. Ltd.	8,12,81,335/-	7,53,92,879/-	8,12,81,335/-	39.70
3.	ProzoneIntu Properties Ltd.	2,48,06,796/-	2,27,86,344/-	2,48,06,796/-	12.12
	<b>Total</b>	<b>20,47,25,348/-</b>	<b>18,94,25,492/-</b>	<b>20,47,25,848/-</b>	<b>100.00</b>

2.5 Based on the admitted claims and in the absence of any claims from financial creditors, the Applicant duly constituted the CoC comprising of unsecured financial creditors, with the voting percentages as indicated above. Further, no claims were received from the Income-tax Department. The claims from two other operational creditors, valued at Rs.153,400/- (excluding claims from workmen/employees), were received and accepted by the Applicant.

2.6 The Applicant appointed two registered valuers, Mr. Pravin Navandar and Mrs. Chetna Sutaria, in accordance with Regulation 27 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016 (CIRP Regulations), to determine the fair value and liquidation value of the CD's assets and in terms of Regulation 35 of the CIRP Regulations. These appointments were subsequently approved by the CoC in its second meeting held on 26.08.2019.

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### **Information Memorandum and Expression of Interest**

- 2.7 The Applicant/RP informed the members of the CoC in the second meeting on 26.08.2019 that the Information Memorandum had been prepared within the timeline stipulated by the IBC and would be made available to the members upon signing a Non-Disclosure Agreement/Undertaking.
- 2.8 It was then unanimously resolved to publish an Expression of Interest (EOI) in Form G, inviting resolution plans, under Regulation 36A(5) of the CIRP Regulations. The evaluation matrix for resolution plans, in terms of Regulations 2(h) and (ha) of the CIRP Regulations along with the eligibility criteria for Prospective Resolution Applicants (PRAs) submitting plans, was also discussed and approved by the CoC in the said meeting.

### **Publishing of EOI**

- 2.9 The Applicant/RP published invitation for the EOI in newspapers on 29.08.2019, with 30.09.2019 as the last date for submission of the same. However, the Applicant received no response. The Applicant states that the CoC members, in their third meeting held on 02.11.2019, resolved to extend the date of submission of EOI by 92 days, from 01.10.2019 to 31.12.2019.
- 2.10 In the fourth meeting on 10.12.2019, the Applicant discussed the CD's assets and liabilities as of 11.07.2019 with CoC members. The CoC deliberated and agreed that financial position of the CD was not attractive

enough to enable them to get their dues back. The Applicant informed members of his efforts to revive the CD by inviting EOIs within the extended period, yet no inquiries or EOIs were received from any PRA. The Applicant/RP explained to the members of CoC that the CD did not have a financial model nor financial resource or operational efficiency or business model which has potential to attract a resolution plan. Additionally, the Applicant informed the CoC that he received no response from the promoters for the revival of the CD.

2.11 In the above backdrop, the CoC discussed and unanimously resolved to apply to the Adjudicating Authority (AA) for liquidation of the CD under Section 33(1)(a) of the IBC. The members of the CoC further unanimously resolved to appoint the Applicant, as the Liquidator, fixing his professional fees, exclusions, and reimbursements. Thus the IA.

### **3. ANALYSIS AND FINDINGS**

3.1 We have heard the Counsel for the Applicant/RP and perused all the documents placed on record, along with the relevant provisions of law.

3.2 Section 33(2) of the IBC provides for liquidation of a corporate debtor by the AA on intimation of the decision of the committee of creditors to liquidate the corporate debtor, with sixty-six per cent. of the voting share, at any time during the corporate insolvency resolution process but before confirmation of resolution plan. The Hon'ble Supreme Court in *K. Sashidhar Vs. Indian Overseas Bank & Ors* [Civil Appeal No. 10673 of 2018] held that the

commercial decision of CoC is non-justiciable as financial creditors are well-acquainted with the corporate debtor's position and their decisions during the CIRP reflect collective business judgment, and the NCLT cannot challenge this commercial wisdom.

- 3.3 In the present case, it is observed that the CoC, with a 100% majority, passed a resolution recommending liquidation of the CD in its fourth meeting held on 10.12.2019. The members of the CoC are the best judges of their interest, fully conversant with market realities, and therefore, their decision should not be interfered with by this AA.
- 3.4 It is further observed that the Applicant/RP has complied with the procedures prescribed under the IBC and the CIRP Regulations. The reasons cited in the Application for the CoC's decision to liquidate the CD appears convincing as no EOIs were received from any PRA in response to the publication of Form-G and the extension of date of submission of the same.
- 3.5 During the proceedings, this Tribunal, by order dated 12.03.2020, directed the Applicant/RP to submit valuation report of the CD. Consequently, on 14.07.2021, the Applicant produced the valuation report, prepared by the appointed registered valuers, CA Chetna Sutaria and CA Pravin R. Navandar. A summary of the report is as follows:

Sr. No.	Name of Value	Fair Value (Rs.)	Liquidation Value (Rs.)
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1.	Chetna Sutaria	54,49,261/-	54,49,261/-
2.	Pravin R Navandar	41,21,261/-	27,93,261/-

- 3.6 This Bench also notes that the CoC deliberated and agreed that the financial position of the CD is insufficient to enable recovery of their dues. It is seen that the CD has no fixed assets. In the above circumstances, we are of the considered view that this case is fit for passing a liquidation order under sub-section (1) of Section 33 of the IBC, in the absence of any resolution plan.
- 3.7 We observe that Applicant who has been acting so far as RP, has also given his consent to act as the liquidator of the CD, which was approved by 100% vote of the CoC in their fourth meeting. However, 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 had recommended that an IP other than the RP/IRP may be appointed as Liquidator in all the cases where Liquidation order is passed. Therefore, in terms of the said circular, we hereby appoint having Registration No. IBBI/IPA- and email id as per the panel suggested by IBBI for this Bench as the Liquidation of the CD to carry the liquidation process. The Liquidator so appointed shall complete the liquidation process as per the provisions of the IBC read with the Liquidation Process Regulations.



3.8 In view of our foregoing discussions, liquidation of the CD is hereby ordered with following directions:

(a) The CD (i.e., YYAVI TRADERS LIMITED) shall be liquidated in the manner as laid down in Chapter-III of the Code.

(b) Considering the Letter No. Liq-12011/214/2023-IBBI/840 dated 18.07.2023 addressed to the Secretary, National Company Law Tribunal, Principal Bench, New Delhi, by Mr. Rajesh Tiwari, General Manager, Insolvency and Bankruptcy Board of India (IBBI), we appoint Ms. Sneha Sumit Rungta, an Insolvency Professional (Registration No. IBBI/IPA-001/IP-P02908/2024-2025/14469) Email : ID [casnehajindal@gmail.com](mailto:casnehajindal@gmail.com) is appointed as the Liquidator of the CD. The Liquidator has valid Authorisation for Assignment up to 31.12.2025.

(c) The Liquidator will charge fees for conduct of the liquidation process in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be payable to the Liquidator from the proceeds of the liquidation estate.

(d) The Moratorium declared under Section 14 of the IBC shall cease to operate from the date of this Order.

(e) The Liquidator shall issue public announcement stating that CD is in liquidation.

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- (f) The Liquidator shall endeavor to sale the CD as a going concern during the liquidation process in terms of Regulation 32A of the Liquidation Process Regulations. In case the Liquidator is not able to do so within a period of 90 days from this date, he shall proceed under Regulation 32 of the Liquidation Process Regulations.
- (g) Subject to section 52 of the IBC, no suit or other legal proceedings shall be instituted by or against the CD.
- (h) All powers of the Board of Directors, Key Managerial Personnel and partners of the CD shall cease to have effect and shall be vested in the Liquidator.
- (i) The Liquidator shall exercise the powers and perform duties under Sections 35 to 50 and 52 to 54 of the IBC, read with the Liquidation Process Regulations.
- (j) All personnel connected with the CD shall extend every assistance and cooperation to the Liquidator as she will be required for managing the affairs of the CD.
- (k) The Liquidator shall submit progress reports as per Regulation 15 of the Liquidation Process Regulations.
- (l) The Liquidator is hereby authorised to represent the CD before the Government and other authorities, where necessary.



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- (m) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the CD, except when the business of the CD is continued during the liquidation process by the Liquidator.
4. A copy of this Order shall be furnished to the IBBI; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies, Official Liquidator, Maharashtra, the Registered Office of the CD; and the Liquidator.
5. With the aforesaid directions, IA No. 130 of 2020, stands **disposed of as allowed.**
6. Ordered Accordingly.

**Sd/-**  
**MADHU SINHA**  
**MEMBER (TECHNICAL)**

//LRA-Deepa//

**Sd/-**  
**K. R. SAJI KUMAR**  
**MEMBER (JUDICIAL)**