

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT-V

I.A. 761 OF 2021

IN

C.P.(IB) No. 3937 of 2019

Under Section 33 (1) of the Insolvency &
Bankruptcy Code, 2016

Filed by

Kairav Anil Trivedi

..... Applicant

In the matter of

Silver Broom India

..... Petitioner/Operational Creditor

Versus

La Villa Café Private Limited

.....Respondent/Corporate Debtor

Order Dated: 12.05.2023

Coram:

Hon'ble Shri. Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Shri. Prabhat Kumar, Member (Technical)

Appearances (Via Videoconferencing)

For the Applicant: - Mr. Kairav Trivedi, PCA

Per: Kuldip Kumar Kareer, Member (Judicial)

ORDER

1. The above Application I.A. No. 761/2021 is filed by the Resolution Professional, Mr. Kairav Anil Trivedi (hereinafter referred as the “**Applicant**”) seeking Liquidation of La Villa Café Private Limited (hereinafter referred as the “**Corporate Debtor**”) under Section 33 (1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “**the Code**”), praying the following reliefs:

- I. *Pass an order for liquidation under Section 33(1) for Corporate Debtor which is under CIRP vide order CP(IB) No. 3937/NCLT/MB/2019;*
- II. *To appoint Mr. Kairav Anil Trivedi, having Registration No. IBBI/IPA-002/IP-N00728/2018-19/12332 as the liquidator of the Corporate Debtor;*
- III. *Any other order that this Hon’ble Tribunal may deem fit in the facts and circumstances of this case.*

BRIEF FACTS OF THE CASE:

2. The Applicant mentioned that this Tribunal vide order dated 16.07.2020, in Company Petition No. (IB) 3937/NCLT/MB/2019, admitted the petition under Section 9 of the Code which was filed by Silver Broom India (hereinafter referred to as the “**Operational Creditor**”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “**CIRP**”) was initiated against La Villa Café Private Limited (hereinafter referred to as the “**Corporate Debtor**”). vide the same Order, this Tribunal has appointed Mr. Kairav Anil Trivedi, as IRP of the Corporate Debtor.
3. Pursuant to Regulation 6 of the IBBI (CIRP) Regulations, 2016 the IRP issued the Public Announcement dated 18.07.2020 for inviting the claims from the creditors of the Corporate Debtor in Form-A and the

same was published on 20.07.2020 in two newspapers viz Financial Express (English) and Navshakti (Marathi). The copy of the said public announcement is annexed with the Application. The last date for submission of the claims was given as 31.07.2020.

4. The Applicant has submitted that the CIRP commenced on 18.07.2020 and 180th day of CIRP was over on 14.01.2021. Till date, since more than 270 days are over, and Committee of Creditors has not received a Resolution Plan under Section 30 of the Code during the permitted period for completion of Corporate Insolvency Resolution Process under Section 12 of the Code. The Applicant, therefore, has filed this Application under the provisions of Section 33(1)(a) of the Code for an order of Liquidation against the Corporate Debtor. It has been submitted that no revival is possible as the Corporate debtor is not operational, and all its assets had been sold.
5. The Committee of Creditors has proposed the name of Mr. Kairav Anil Trivedi, having IBBI Registration No. IBBI/IPA-002/IP-N00728/2018-19/12332 and office address at Shramjeevan B 5, Opp. Lodha New Cuffe Parade, Wadala (E), Mumbai. 400037 as liquidator of the Corporate Debtor after obtaining written communication from the proposed liquidator dated 26.03.2021.
6. After hearing the submissions made by the Applicant and upon perusing the material available on record, Ee are of the view that since the Committee of Creditors has not received any Resolution Plans, and the statutory period of 270 days has already expired, this Tribunal is left with no option but to allow the above Liquidation Application. The Committee of Creditors, thereby, has proposed to appoint **Mr. Kairav Anil Trivedi, having IBBI Registration No. IBBI/IPA-002/IP-N00728/2018-19/12332** as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The proposed liquidator has also

agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as the Liquidator which has been annexed with the present Application. This Bench, therefore, is of the opinion that this is a fit case for ordering liquidation of the Corporate Debtor.

7. Accordingly, the above Interlocutory Application Number 761 of 2021 is **“allowed”** directing the Liquidation of the Corporate Debtor in the following terms:

ORDER

- a. The above I.A. 761 of 2021 is **‘allowed’** and the Corporate Debtor **La Villa Café Private Limited** is ordered to be liquidated.
- b. Mr. Kairav Anil Trivedi, having IBBI Registration No. IBBI/IPA-002/IP-N00728/2018-19/12332 and office address at Shramjeevan B 5, Opp. Lodha New Cuffe Parade, Wadala (E), Mumbai. 400037, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- c. The Liquidator, for the conduct of the liquidation proceedings would be entitled for fees as per Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process Regulations), 2016.
- d. The Liquidator appointed in this case shall initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- e. All the powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- f. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- g. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. That on having liquidation process initiated, 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.
- i. 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.

With the above directions, this Application i.e. I.A. No. 761 of 2021 is hereby **“allowed”** and **“disposed of”**.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
MEMBER (JUDICIAL)