

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH: C-IV**

IA-4824(MB)2023 IN C.P. (IB)/544(MB)2021

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

Mr. Asish Narayan

...Resolution Professional/
Applicant

In the matter of
State Bank of India

...Operational Creditor

Vs.

SND Limited

...Corporate Debtor

Ordered pronounced on: **06.12.2023**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP/Liquidator

: Mr. Ashish Narayan

ORDER

1. This is an application filed by Mr. Asish Narayan, Resolution Professional of the Corporate Debtor seeking liquidation of SND

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Limited under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).

Brief facts of the Application are as follows:

2. This Tribunal vide an order dated 29.09.2022, in Company Petition bearing C.P.(IB)/544(MB)2021 filed under Section 7 of the Code, by State Bank of India (hereinafter referred to as the “Financial Creditor”), admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against SND Limited [CIN: U40300MH2011PLC215684] (hereinafter called as the “Corporate Debtor”). The applicant was appointed as Interim Resolution Professional by this Tribunal vide order dated 29.09.2022 and was confirmed as Resolution Professional in the first CoC meeting held on 28.10.2022.
3. The Applicant further submits that on 10.12.2022 he published Form G inviting Expression of Interest (EoI) from prospective resolution applicants under, section 30(6) of the Code. The last date for submission of Expression of Interest was 25.12.2022.
4. The Applicant further submits that on 9th CoC meeting held on 20.09.2023, wherein the CoC members representing 90.55% of voting share voted against the Resolution Plan submitted by M/s MKS Constroventure Private Limited. One of the CoC member i.e. Punjab National Bank had also dissented for the said resolution plan via email dated 21.09.2023.-As there being no successful resolution applicants, the CoC in its 11th meeting held on 21.09.2023, resolved to liquidate the

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Corporate Debtor. The resolution to initiate liquidation proceedings was passed with **100%** voting of the CoC. The same are reproduced below:

“RESOLVED THAT in terms of Section 33(2) of Insolvency and Bankruptcy Code, 2016. the consent of Committee of Creditors, be and is hereby accorded for filing an Application to initiate the Liquidation Process against the Corporate Debtor i.e., SND Limited.”

“RESOLVED FURTHER THAT the consent of the Resolution Professional Mr. Asish Narayan to act as a liquidator in the instant matter be and is hereby taken on record, in case an order for liquidation is passed under Section 33(2) of IBC.”

RESOLVED FURTHER THAT the Resolution Professional, Mr. Asish Narayan be and is instructed and authorised to file an application in terms of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for seeking initiation of Liquidation Process against the Corporate Debtor and the legal expenses of Rs. 40.000/- plus GST for filing and pursuing such Application shall form a part of the CIRP Cost.”

The members of CoC representing 100% voting share voted in favour of Agenda Item No. B1..

5. Considering the facts and circumstances as submitted by the Applicant in the Application and Counsel appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that:
 - a. IA-4824(MB)2023 IN C.P. (IB)/544(MB)2021 filed by the Applicant for the Liquidation of the Corporate Debtor viz. SND Limited is **allowed** and the company to be liquidated in the following manner:

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- b. Though the CoC recommended the present RP to be appointed as Liquidator, this Bench considers to appoint another Insolvency Professional from the panel approved by the IBBI. Accordingly, this Bench hereby appoints Mr. Mrudula Cletus Brodie, having Registration No. IBBI/IPA-001/IP-P-01702/2019-2020/12681 (email: camrudulkejdiwal@gmail.com Mob.9823900332) as the Liquidator as provided under Section 34(1) of the Code to conduct the liquidation process of the Corporate Debtor.
- c. The Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d. The Liquidator appointed in this case to 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. The Liquidator appointed under Section 34(1) of the Code, will have all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, hereafter ceased to exist and henceforth be vested with the Liquidator.
- f. 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.

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- g. 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. 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- i. This liquidation order u/s 33(7) 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.
6. With the above directions, the IA-4824(MB)2023 IN C.P.(IB)/544(MB)2021 filed u/s 33(2) by the Applicant is hereby **allowed** and disposed of.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Suresh 06.12.2023

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)