

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, (Court – II)  
KOLKATA**

**I.A.(IB)(Liq.)/8(KB)2024**

**C.P. (IB)/52(KB)2023**

***An application under Section 33(2) of the Insolvency and  
Bankruptcy Code, 2016.***

**-And-**

**In the matter of:**

**(1) M/s. Surya International;**

**... Operational Creditor**

**-Versus-**

**(2) M/s. Salasar EXIM Limited;**

**... Corporate Debtor**

**-And-**

**(3) FCMA Subrata Ghosh;**

**... IRP/Applicant**

**Date of pronouncement of the Order: 05/11/2024**

**Coram:**

**SMT. BIDISHA BANERJEE HONOURABLE MEMBER (JUDICIAL)**

**SHRI D. ARVIND HONOURABLE MEMBER (TECHNICAL)**

**Appearances (via video conferencing/physically):**

Ms. Manju Bhuteria, Adv. : For the Operational Creditor

Ms. Prerna Shaha, Adv. :

Ms. Nattasha Garg, Adv. : For the R-1 in IA(I.B.C)/1571(KB)2023 and

Mr. Thakur Ankit Singh, Adv. : IA(I.B.C)/516(KB)2024

Mr. Shaunak Mitra, Adv. : For the Resolution Professional

Ms. Tannya Baranwal, Adv. :

Ms. Zeenat Shabab, Adv. :

Ms. Ankita Sengupta, Adv. :

Mr. Sushanta Kr. Chowdhury : RP-in-Person



---

**O R D E R**

**Per: Bidisha Banerjee, Member (Judicial)**

1. This Court is convened through hybrid mode.
2. Ld. Counsel/Authorised Representative appearing on behalf of the parties were heard *in extenso*.
3. This application **IA(IB)(Liq.)/8(KB)2024** has been preferred to seek the following reliefs, *inter alia*: -

**(a)** *To initiate Liquidation Process of the Corporate Debtor as per Section 33 of the Insolvency and Bankruptcy Code, 2016;*

**(b)** *Such further and/or other Order or Orders as this Court may deem fit and proper.*

4. **Factual matrix of the case is as under: -**

**(a)** The CIRP of the Corporate Debtor (CD) was commenced on 11.07.2023 when C.P. (IB) No. 52/KB/2023 was admitted and Mr. Subrata Ghosh was appointed as the Interim Resolution Professional (in short “IRP”) by this Adjudicating Authority. The IRP took charge on 11.07.2023 and made **Public Announcement** on **14.07.2023**.

**(b)** The IRP formed the CoC based on claims received by him on 26.07.2023 and submitted the Report certifying the constitution of the CoC before this Adjudicating Authority on the same date.

**(c)** The first meeting of the CoC was held on 05.08.2023 the interim resolution professional expressed his willingness to



act as Resolution Professional (in short “RP”), however, the HDFC BANK having 88.59% strength in the CoC and proposed the name of an Insolvency Professional by the name Mr. Susanta Chowdhury connected IA 1576/2023 has been filed by the HDFC Bank for replacement of IRP. The same was still pending before this Adjudicating Authority, and hence, the IRP is performing the duty of RP.

- (d) On 20.08.2023, the IRP appointed two registered valuers, and the corresponding report was received on 31.01.2024.
- (e) In terms of Regulations 36A(1) of the CIRP Regulations the IRP Published the **Form G** as the initial call for Expressions of Interest on 20.08.2023 in “**Morning India**” and “**Duranta Barta**” two newspapers. Subsequently, the same announcement was uploaded to both the Board's website and the website of the Insolvency Professional Entity (IPE).
- (f) In response to the invitation of EoI dated 20.08.2023 the IRP had received EOIs and EMDs from 5 PRAs namely: -
- i. Finedge Advisory India
  - ii. Balaji Enterprise
  - iii. Crown Steels
  - iv. Krishna Wax Pvt. Ltd.
  - v. Samskar Financial Services Pvt. Ltd.
- (g) The provisional list of PRAs was issued to the PRAs on 09.09.2023 and to the CoC on 14.09.2023. Having received no objection from any of the PRAS u/s 36A(11) of the CIRP Regulations, and upon scrutiny of the PRAS by the IRP, the

provisional list was confirmed as the final list and shared to the CoC by the IRP on 21.09.2023.

- (h) The last date of submission of resolution plans was 16.10.2023. Meanwhile, 3 of the PRAs, namely, Krishna Wax Pvt Ltd, Balaji Enterprise and Samskar Financial Services Pvt. Ltd, withdrew their EoI. The PRA, Finedge Advisory India had requested for an extension of 2 weeks' time for submission of the resolution plan, however, they failed to provide the resolution plan in the stipulated time. The only PRA (Prospective Resolution Applicant), namely, Crown Steels submitted their resolution plan, which was not approved by CoC in the 2<sup>nd</sup> CoC meeting.
- (i) The IRP noted that the CIRP is a time bound process. The IRP and the CoC had already agreed upon to conduct another round of EOI in the 2<sup>nd</sup> meeting of the CoC dated 20.10.2023. The IRP had published the 2<sup>nd</sup> invitation to EOI in accordance with 36A(1) of CIRP Regulation in "Morning India" and "Duranta Barta" of Kolkata editions and on the website of the Board; on the website of the IPE on 24.11.2023. The minutes of the 3<sup>rd</sup> meeting and the submission proof of the EOI have been furnished.
- (j) In response to the invitation of EOI dated 24.11.2023 the IRP had received EoI and EMD from only one PRA, namely "**Crown Steels**". As there was only one PRA provisional and the final list of PRA was issued to the PRA and to the CoC on the same date, i.e., on 12.12.2023. The last date of submission of resolution plans was on 11.01.2024.



**(k)** The PRA, i.e., Crown Steels requested for seven days' extension for submitting resolution plan, the extended period was scheduled to conclude on 18.01.2024. However, the IRP had not received any submission from the Crown Steels. Hence, the period of Resolution Plan expired.

**(l)** The 3rd CoC meeting was held on 20.12.2023, where the CoC resolved by a voting share of 88.59% to file an application before this Adjudicating Authority to extend the period of the CIRP by a further period of 90 days in accordance with Section 12(2) of the Code read with regulation 40(2). The IRP had filed the same *vide* IA 21/2024, which was still pending before this Adjudicating Authority.

**(m)** The 4<sup>th</sup> CoC meeting was held on 31.01.2024. The 5<sup>th</sup> CoC meeting was held on 19.02.2024 where the CoC resolved by a voting share of 88.59% to initiate the Liquidation proceeding of the Corporate Debtor. In the said meeting the CoC members had also taken the decision that the CD would initially be sold as a going concern by the liquidator u/r 32(e) of the Liquidation Regulations.

**(n)** Hence, this application has been preferred filed before this Adjudicating Authority seeking initiation of Liquidation Process of the Corporate Debtor as per Section 33 of the Code.

5. The rival contentions were noted.



6. **Analysis and Findings:** -

- (a) We have considered the submission made by the Ld. Counsel and perused the record.
- (b) Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor when the CoC with 66% approves the Liquidation of Corporate Debtor.
- (c) Hence, we do find merit in the prayers made in **IA(IB)(Liq.)/8(KB)2024**, and deem it fit to order liquidation of the Corporate Debtor.

7. **This Bench, therefore, hereby Orders as follows:** -

- a. Prayers as sought for in **IA(IB)(Liq.)/8(KB)2024** filed by RP, is allowed and **M/s. Salasar EXIM Limited**, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code;
- b. **Ms. Varsha Bagri** having registration no. **IBBI/IPA-001/IP-P01812/2019-2020/12783**, **email: [varsha\\_bagri@yahoo.com](mailto:varsha_bagri@yahoo.com)**; **Mobile: 9339239644**, is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member;
- 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 newspapers 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,

within whose jurisdiction the Corporate Applicant is registered.

8. In the aforesaid backdrop, the application bearing No. **IA(IB)(Liq.)/8(KB)2024** shall stand **disposed of** in accordance with the above directions.
9. List the main **C.P. (IB)/52(KB)2023** for reporting progress on **06.01.2025**.
10. 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.
11. Urgent certified copies of this Order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.
12. File be consigned to records.

**D. Arvind**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

**Order signed on: 05<sup>th</sup> of November, 2024.**

*Ar. [steno]*