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

I.A. No. 2462 of 2020
In
CP (IB) No. 3513 of 2018

Application under Section 33 of Insolvency and Bankruptcy Code, 2016

Mr. Laxmikant Yeshwant Desai, Resolution Professional of Global Towers Limited
503, Atharva, M B Raut Road, Shivaji Park, Dadar (W), Mumbai-400 028.
…..Applicant

In the matter of
Ada Cellworks Wireless Engineering Private Limited
… Operational Creditor
Vs
Global Towers Limited
… Corporate Debtor

Order delivered on: 15.07.2022

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Shri Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Pranav Avhad, Advocate.

ORDER

Per:- Shyam Babu Gautam, Member Technical

1. This is an Application under Section 33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "the Code") by Mr. Laxmikant Yeshwant Desai, Resolution Professional (RP) of Global Towers Limited seeking orders for Liquidation of the Corporate Debtor.

2. On perusal of this Application, it is evident that the **Company Petition No. 3513 of 2018** filed by the Operational Creditor under Section 9 of the Code was admitted by this Tribunal vide an Order dated 11th March 2019 and subsequently Ms. Dipti Mehta was appointed as the Interim Resolution Professional (IRP). Since she was unwilling to act as IRP, Ms. Rajshree Pardia was appointed as the new IRP and subsequently the Corporate Insolvency Resolution Process (CIRP) commenced on 29th August 2019. A Public announcement in Form A pursuant to Section 15 of the Code and the Committee of Creditors (CoC) was constituted post which a total of four (4) meetings were held in the course of the CIRP.

3. Pursuant to the approval of the CoC in its **First Meeting held on 27th September 2019**, Mr. Laxmikant Yeshwant Desai, the present Applicant, was appointed as Resolution Professional (RP) of the

Corporate Debtor vide Order dated 10th December 2019. Thereafter as approved by the CoC in their **Second Meeting held on 6th January 2020**, Form G was published on 10th January 2020 in Financial Express (English) and Navakal (Marathi) wherein the last date for receipt of Expression of Interest (EOIs) from prospective Resolution Applicants was mentioned as 24th January 2020 and the last date for receipt of Resolution Plans was 5th March 2020.

4. Further, in the **Third Meeting held on 19th February 2020**, in compliance with Regulation 27 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter called "Regulations"), the RP appointed 4 independent valuers namely 2 valuers for conducting valuation of assets of the Corporate Debtor and 2 valuers for conducting valuation of land and building. The RP also appointed Legal and professional consultants and Chartered Accountants for performing the functions of Tax Consultants and Transaction Auditor. Additionally, it was resolved that the fees payable to these professionals was to form part of the CIRP Costs as per Regulation 31 of the Regulations and the same was ratified by the Resolution passed by the CoC. All other miscellaneous expenses amounting to Rs. 53,43,503/- were approved and ratified by the CoC.

5. After an interregnum caused due to Covid- 19 pandemic, the **Fourth Meeting of CoC** was conducted on **16th December 2020** wherein the valuation reports prepared by independent valuers and the

Transaction Audit Report dated 20th October 2020 were accepted by the CoC by passing appropriate Resolutions. The Transaction Audit Report of the Corporate Debtor concluded that no Preferential Transactions, Undervalued Transactions, Transactions with the objective of defrauding Creditors and Extortionate Credit Transactions have occurred in the review period. The revised extended CIRP period was set to expire on 1st February 2021.

6. Since neither any Expression of Interest nor any Resolution Plan was received from any Resolution Applicant, the CoC approved the Resolution for initiating liquidation proceedings under Section 33 of the Code against the Corporate Debtor and authorised the RP to file an Application for Liquidation by passing the Resolution with 100% voting share. Further the CoC also resolved to appoint the RP, Mr. Lakshmikant Yeshwant Desai, as the Liquidator for the Corporate Debtor. The relevant Resolutions are reproduced as under:

> *"**RESOLVED** that Mr. Lakshmikant Yeshwant Desai, the Resolution Professional for the Corporate Debtor, be and is hereby authorized to file an application at the earliest, with the appropriate adjudicating authority, for commencement of liquidation proceedings in respect of the Corporate Debtor as per the provisions u/s 33 of the IBC, 2016."*

> *"**RESOLVED THAT** Mr. Lakshmikant Yeshwant Desai, the Resolution Professional for the Corporate Debtor be and is hereby appointed as the Liquidator for Global Towers Limited (ie Corporate Debtor), subject to such appointment being confirmed by the concerned adjudicating authority, and on such basis that fees (plus out of pocket expenses, if any) payable to the Liquidator would be a 'percentage of fee on the amounts realized/ distributed (exclusive of liquidation costs) as governed by Regulation 4(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016."*

7. Looking at the averments and submissions of the Applicant, we are of the considered opinion that this is a fit case for liquidation and, therefore, we hereby order the Liquidation of the Company with directions as follows:

ORDER

a) The Corporate Debtor, **Global Towers Limited**, shall be liquidated in the manner as laid down in Chapter-III of the Code.

b) The present Applicant, Mr. **Laxmikant Yeshwant Desai**, the RP of Global Towers Limited is appointed as the Liquidator.

c) He shall issue public announcement stating that the Corporate Debtor is in liquidation.

d) The Moratorium declared under Section 14 of the Code shall cease to operate and a fresh Moratorium under Section 33(5) of the Code shall commence.

e) Subject to section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

g) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.

h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.

i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.

j) This Order 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.

k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra, Mumbai, the Registered Office of the Corporate Debtor; and the Liquidator.

8. The **IA- 2462 of 2020** filed by the RP for Liquidation of the Corporate Debtor stands **allowed**.

Sd/-	**Sd/-**
SHYAM BABU GAUTAM	**JUSTICE P. N. DESHMUKH**
(MEMBER TECHNICAL)	**(MEMBER JUDICIAL)**

AN
15.07.2022