

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
ALLAHABAD BENCH**

IA No.146 of 2021
IN
CP(IB) No.421/ALD/2019

IN THE MATTER OF:

MR. AJIT KUMAR
Resolution Professional of
Hipad Technology India Private Limited

**..... APPLICANT
(RESOLUTION PROFESSIONAL)**

IN THE MATTER OF :

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED
.....FINANCIAL CREDITOR
Vs.

HIPAD TECHNOLOGY INDIA PRIVATE LIMITED
..... CORPORATE DEBTOR

ORDER DELIVERED ON : 15.07.2021

CORAM:
Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial

For the Resolution Professional: Mr. Shivanshu Kumar, Advocate

Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)

Order

1. The present application is filed under Section 33 read with 33(2) of the Insolvency and Bankruptcy Code by the Resolution Professional, through his Counsel seeking order of the liquidation and appointment of liquidator under Section 33 and 34 of the Insolvency & Bankruptcy Code with such prayer, to pass an order for the liquidation of the Corporate Debtor Company i.e. "Hipad Technology India Pvt. Ltd."
2. The Adjudicating Authority vide its order dated 09.12.2020 based on a petition filed by the Financial creditor under Section 7 of the Code in CP (IB) No. 421/ALD/2019, initiated the CIRP in respect of Corporate Debtor Company and appointed Mr.Sandeep Chandna as IRP and

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subsequently was replaced by Mr. Ajit Kumar as RP in the 2nd COC meeting which was approved by this tribunal vide order dated 27.01.2021.

3. It is contended on behalf of the applicant that in the 3rd meeting of COC held on 17.02.2021, the applicant informed the COC about the status of the corporate debtor and further, appraised the COC about the current scenario of the assets lying in the warehouse.
4. After taking into consideration , the assets of the corporate debtor, the COC was of the opinion that as the machinery has been deteriorated in the process of dismantling the assets from the demised property by Nimmi Buildtech Private limited to the current place where they are stored in the godown and since the corporate debtor is neither a going concern nor it is possible to get a resolution of the corporate debtor , therefore, COC was of the view not to publish Form G as would be futile exercise and delay would deteriorate the value of the assets, thus COC decided to liquidate the corporate Debtor.
5. Further in the 4th COC meeting held on 19.03.2021 RP appraised the procedure of liquidation to the COC and in the 5th COC meeting convened on 25.03.2021, the applicant informed the COC members that after the suspended directors of the corporate debtor absconded from the country in the year 2019-20, all the assets including heavy machineries of the corporate Debtor were left at the premises of Nimmi Build Tech Pvt. Ltd without any maintenance and security.
6. It is further contended that since the corporate debtor has ceased its operation and in view of rapid changes in mobile technology, the machineries and equipment of the corporate debtor are turning obsolete and with the passage of time, the value of the said assets

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would greatly decrease, thus the aim of achieving the requisite value would no longer exist, therefore an application under section 33 be filed before this Hon'ble Tribunal for liquidating the Corporate Debtor. Further the applicant was appointed as the liquidator by the CoC to conduct the liquidation process. Accordingly, as instructed by CoC, the applicants filed the present petition seeking liquidation of the Corporate Debtor under Section 33 of the Code and to appoint the RP as the liquidator in terms of the provisions contained in the Code.

7. At this juncture, it is pertinent to refer Section 33(2) of the IBC, which mandates that *"where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)."*
8. Therefore, the Tribunal observes that that since COC in its fifth meeting dated 25.03.2021 with 100% voting shares passed the resolution to liquidate the Corporate Debtor as there is no hope for receiving the resolution plan for the revival of the company because the company is not a going concern and further RP has also complied with the provisions laid down under Insolvency and Bankruptcy Code.
9. Therefore, after considering facts and circumstances, and by exercising the power under Section 33, this Adjudicating Authority hereby directs that the Corporate Debtor i.e "Hipad Technology India Pvt. Ltd." shall go into Liquidation and the moratorium declared for the Corporate Debtor under Liquidation shall cease to have effect from pronouncement of this Order.

— Sd —

10. This Adjudicating Authority hereby appoint the Resolution Professional Mr. Ajit Kumar, having Registration Number as IBBI/IPA-003/ IP-N00062/2017-18/10548, as 'Liquidator' under Section 34(1) of the Code as he is not disqualified as per Section 34(4) of the IBC. The Liquidator shall send an intimation to the ROC, Uttarakhand with which the Corporate Debtor Company is registered. The liquidator shall cause public announcement in newspaper by declaring that the Corporate Debtor has gone under liquidation.
11. The Liquidator shall act as per section 35 of the Insolvency and Bankruptcy Code, 2016 (hereinabove referred as "IBC") subject to direction time to time as may be issued by this Adjudicating Authority.
12. The liquidator shall file progress report of every three months.
13. With the aforesaid observations, the IA No. 146/2021 is allowed and accordingly stands **disposed of**.

— Sd —

JUSTICE RAJESH DAYAL KHARE
MEMBER (J)

Date: 15.07.2021

Swati Gupta
(LRA)