

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

**IA(IBC)/804(KB)2020**

**in**

**CP (IB)/2084(KB)2019**

*Under section 33(2) of the Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

Avaani Oxford Owners Association

... Financial Creditor

*Versus*

Oxford Facilities Management

(CIN: U70102WB2010NPL146580)

...Corporate Debtor

*And*

*In the matter of:*

Ms. Sneh Maheswari,

RP of Oxford Facilities Management

... Applicant

**Order reserved on: 24/11/2022**

**Order pronounced on: 30/12/2022**

*Coram:*

Shri Rohit Kapoor

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

*Appearances (through video conferencing):*

For the Applicant

: Mr. Arik Banerjee, Adv  
Ms. Sneh Maheswari, RP in person

For CoC

: Mr. Joy Saha, Sr. Adv.  
Mr. Avishek Guha, Adv.  
Mr. Chitresh Saraogi, Adv.

For the suspended members of  
Board of Directors of Corporate  
Debtor

: Mr. Aniruddha Mitra, Adv.  
Mr. Dhilon Sengupta, Adv.  
Mr. Abhijit Nayak, Adv.

## ORDER

*Per: Balraj Joshi, Member (Technical)*

1. This Adjudicating Authority convened through hybrid mode.
2. IA(IBC)/804(KB)2022 is an application filed by the Resolution Professional (“**RP**”) upon the instructions of the Committee of Creditors (“**CoC**”) seeking liquidation of the Corporate Debtor, *viz.*, **Oxford Facilities Management (CIN: U70102WB2010NPL146580)**, on the ground that the only asset of the Corporate Debtor is fixed deposit of Rs.3.5 Crores. This application is supported by an affidavit duly affirmed by the RP, which is placed at pages 204 to 206 of the application.
3. This Adjudicating Authority *vide* its order dated 13/03/2020 on a Petition filed by Avaani Oxford Owners Association (*Financial Creditor*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*‘the Code’*) directed initiation of the Corporate Insolvency Resolution Process (**‘CIRP’**) against the Corporate Debtor and appointed Ms. Sneha Maheswari, Applicant herein, as the Interim Resolution Professional (**‘IRP’**), a copy of the said order<sup>1</sup> dated 13/03/2020 is annexed with the application as **Annexure “A”**.
4. In terms of section 15 of the Code, public announcement<sup>2</sup> in Form ‘A’ was published on 17/03/2020 in “*Financial Express*” (English), and “*Aajkal*” (Bengali), inviting claims from the creditors fixing 27/03/2020 as the last date for submitting claim. As required under regulation 6(2)(b)(iii) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said public announcement was also sent to the IBBI for being uploaded on its website on 16/03/2020 and the same was duly uploaded on the IBBI website

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<sup>1</sup> Annexure “A” at pages 50 to 55 of the application

<sup>2</sup> Annexure “B” at pages 56 to 57 of the application

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on 18/03/2020 as per e-mail alert received from IBBI<sup>3</sup>. The Committee of Creditors (“CoC”) was duly constituted with lone Financial Creditor, and the report certifying the constitution of the CoC was filed with the Adjudicating Authority on 28/03/2020 via e-mail due to the lockdown imposed in the wake of COVID-19 pandemic.

5. The first meeting of the CoC was held on 02/04/2020, wherein the IRP was appointed as the Resolution Professional (“RP”). Minutes<sup>4</sup> of 1<sup>st</sup> CoC meeting is placed at pages 117 to 135 of the application.
6. It is stated that on perusal of the Balance Sheet as on 31/03/2019, it was noticed that there was no land or building of the Corporate Debtor, hence, valuers for land and building were not appointed. The applicant appointed four valuers for trade receivable, cash and cash equivalents.
7. The CoC at its 4<sup>th</sup> meeting held on 05/09/2020 had resolved to proceed for liquidation of the Corporate Debtor by 100% voting share and recommending to appoint the Applicant as the Liquidator. The resolution passed by the CoC at its 4<sup>th</sup> meeting is placed at pages 174 to 175 of the application, which is reproduced hereinbelow: -

***“Resolved that the Corporate Debtor – Oxford Facilities Management be liquidated in terms of provisions of Section 33 of the Insolvency and Bankruptcy Code, 2016 (IBC);***

***“Resolved further that the RP be authorised to intimate this decision of the Committee of Creditors to the Hon’ble Adjudicating Authority under Section 33(2) of IBC, 2016 for liquidation of the Corporate Debtor;***

***“Resolved further to nominate the existing Resolution Professional (RP) – Ms. Sneh Maheswari, who being eligible offers herself for appointment, to act as the Liquidator in the matter of liquidation of***

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<sup>3</sup> Annexure “C” at pages 58 to 59 of the application

<sup>4</sup> At pages 117 to 135 of the application

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*the Corporate Debtor – Oxford Facilities Management, under Section 34(1) of IBC, 2016.”*

8. A copy of the minutes<sup>5</sup> of the 4<sup>th</sup> CoC meeting dated 05/09/2020 is annexed with the application. A copy of the written consent<sup>6</sup> dated 29/08/2020 given by the RP in prescribed Form in terms of section 34(1) of the Code was also annexed to the application as **Annexure “M”**. Altogether, the IRP/RP had held Four CoC meetings before going for liquidation.
9. Meanwhile, Mr. Bhaskar Biswas, suspended Director of Oxford Facilities Management (Corporate Debtor) had preferred an appeal before the Hon’ble NCLAT being **Company Appeal (AT) (Insolvency) No. 864 of 2020** for setting aside the order of admission dated 13/03/2020 and the Hon’ble NCLAT has not granted any stay with respect to the order of admission dated 13/03/2020. In the absence of any stay order passed by the Hon’ble NCLAT, the RP continued with the CIRP as provided in the Code and the CoC has resolved to liquidate the Corporate Debtor. Hence, this Adjudicating Authority vide order dated 16/04/2021 in IA(IB)804(KB)2020 had ordered as follows: -

*“33. The application bearing IA(IB)No.804/KB/2020 shall stand over for consideration on 14/07/2021. Liberty is granted to the RP to mention in case the Hon’ble NCLAT’s orders are received earlier.”*

However, the Hon’ble NCLAT vide its order dated 13/07/2021 had dismissed the **Company Appeal (AT) (Insolvency) No. 864 of 2020**.

10. Against the dismissal of the said **Company Appeal (AT) (Insolvency) No. 864 of 2020** by the Hon’ble NCLAT, the said Mr. Bhaskar Biswas, suspended director of Oxford Facilities Management (Corporate Debtor) went in appeal before the Hon’ble Supreme Court of India being **Civil Appeal No. 5055/2021**. In view of pendency of the appeal before the Hon’ble Supreme Court of India, this Adjudicating Authority vide its order dated 01/09/2021

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<sup>5</sup> At pages 167 to 190 of the application

<sup>6</sup> Annexure “M” at pages 203 of the application

adjourned the matter *sine die* with liberty to mention the matter, as soon as any orders are passed by the Hon'ble Supreme Court of India in the said Civil Appeal. The Hon'ble Supreme Court of India *vide its* order dated 09/11/2022 **dismissed** the said **Civil Appeal No. 5055/2021**. In the meantime, the CIRP period has come to an end.

11. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
12. On conjoint reading of these two provisions, this Adjudicating Authority is left with no option but to order liquidation of the Corporate Debtor.
13. This Bench, therefore, hereby orders as follows: -
  - a. IA(IBC)/804(KB)2020 filed by Ms. Sneh Maheswari, Resolution Professional of Oxford Facilities Management, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof.
  - b. **Ms. Sneh Maheswari [Reg. No. IBBI/IPA-001/IP-P01751/2019-2020/12691], E-mail ID: [sneh.maheswari@gmail.com](mailto:sneh.maheswari@gmail.com)**, is hereby appointed as liquidator as provided under section 34(4)(c) of the Code, subject, however, to her possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
  - 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 same newspapers, i.e. **“Financial Express” (English), and “Aajkal” (Bengali)**, 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 her 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, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

14. The application bearing **IA(IBC)/804(KB)2020** shall stand disposed of in terms of the above directions.
15. **CP(IB)/2084(KB)2019** to come up for filing of periodical report on **31/03/2023**.
16. 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.
17. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Rohit Kapoor**  
**Member (Judicial)**

Signed on this, the 30<sup>th</sup> day of December, 2022

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