



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.307
IA(Liq.)/2(AHM)2025
in
C.P.(IB)/23(AHM)2024

Order under Section 33 of IBC

IN THE MATTER OF:

Nandish S.Vin of Anupam Port
Cranes Corporation Limited

.....Applicant

Order delivered on: 25/04/2025

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sanjeev Kumar Sharma, Hon'ble Member(T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD**

**IA(Liq.) No. 2 of 2025
in
CP (IB) No. 23 of 2024**

*(An application filed under Section 33 and 34 of the Insolvency and
Bankruptcy Code, 2016.)*

In the matter of:

NANDISH SUNILBHAI VIN

RP of Anupam Port Cranes Corporation Limited

Reg. No: IBBI/IPA-001/IP-P-02117/2020-2021/13270

Having its address at:

C/53, Shanti Niketan Row House, Anand Mahal Road,

Opp. Sagar Complex, Beside Sneh Sankul Wadi,

Surat, Gujarat - 395009

... Applicant/Resolution Professional

Order pronounced on: 25.04.2025

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV KUMAR SHARMA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant/RP : Mr. Nipun Singhvi, Advocate

ORDER
(Per: BENCH)

1. This application has been filed by Mr. Nandish Sunilbhai Vin
(for brevity, "**Applicant**") **Resolution Professional** of
Anupam Port Cranes Corporation Limited (for brevity,
"**Corporate Debtor**") under Section 33 and 34 of the



Insolvency and Bankruptcy Code, 2016 (for brevity, “**the Code**”) in the Captioned Company Petition CP(IB) No. 23 of 2024, seeking following reliefs:

- A. *allow the present application and condone delay of 2 days in filing present application;*
- B. *order Liquidation of M/s Anupam Port Cranes Corporation Limited as per Section 33 of IB Code, 2016 and appoint Liquidator as it deems fit to this Tribunal, and;*
- C. *grant any other relief as may deem fit in the interest of justice.*

2. Facts of the Case:

2.1. It is submitted by the Applicant that this Tribunal vide its order dated 09.04.2024 passed an order initiating the CIRP against Anupam Ports Crane Corporation Ltd. in CP (IB) No. 23 of 2024 filed by Ispat Traders (India) Private Limited under Section 9 of the Code. The NCLT appointed Mr. Nandish S. Vin as an IRP of the Corporate Debtor. Copy of said order dated 09.04.2025 passed by the NCLT, Ahmedabad Bench is annexed as Annexure-A to this application.

2.2. It is stated that Applicant made publication of Public Announcement in Form-A as per the provisions of Regulation 6 of the IBBI (Insolvency Resolution Process



for Corporate Persons) Regulations, 2016 (for brevity, “**CIRP Regulations, 2016**”) on 17.04.2024. Copy of Public Announcement dated 17.04.2024 is attached as Annexure-B to the application.

- 2.3. It is stated that the applicant, in compliance with Regulation 17 of the CIRP Regulations, 2016, had filed an application bearing IA no. 1849 of 2024 seeking to place report of reconstitution of Committee of Creditor. Copy of the minutes 1st CoC meeting dated 14.05.2024 is annexed as Annexure D to the application.
- 2.4. It is submitted that RP informed various activities undertaken in accordance with provisions of IB Code, 2016. During meeting, RP informed CoC members that in accordance with IB Code, RP is required to publish Form-G within 60 days from admission order.
- 2.5. It is stated that in view of the above compliance RP stated to issue Form-G on 07.06.2024 and explained salient featured of documents i.e. IM, RFRP, EOI. The CoC members after due consideration approved



eligibility criteria, evaluation matrix, Form G and Request for resolution plan with requisite majority of 100%.

2.6. It is submitted that the Applicant RP herein in compliance of Regulation 36A (1) of the CIRP Regulations, 2016 published FORM G for invitation for expression of interest from resolution applicants for Corporate Debtor dated 07.06.2024. Pursuant to publication of Form-G, the Applicant RP received interest from 4 PRAs showing interest to submit resolution plan. Copy of the FORM G published dated 07.06.2024 is annexed hereto and marked as Annexure-E.

2.7. It is submitted that the Applicant herein submits that in the 3rd COC Meeting suspended management apprised that other Financial Creditors were also approached by them and they have also settled the matter accordingly. Hence, considering MHI AND MHIT filed an application for admission of claim.

A handwritten mark in blue ink, possibly a signature or initials, located at the bottom left of the page.

A small handwritten mark in blue ink, possibly a signature or initials, located at the bottom right of the page.



- 2.8. It is submitted by the Applicant RP herein that the Mitsubishi Heavy Industries Limited filed an application bearing IA no. 1398 of 2024 on 05.09.2024 for direction against RP to accept their claim of Rs. 45,97,20,730/- as financial creditor and Mitsubishi Heavy Industries Machinery Technology Corporation filed an application bearing IA no. 1421 of 2024 having claim of Rs. 100,38,17,485/- seeking prayer to accept claim as operational creditor. Applicant RP accepted their claim as financial creditor and operational creditor on 16.09.2024.
- 2.9. It is submitted that the Adjudicating Authority dismissed the application bearing IA no. 1398 of 2024 as infructuous filed by MHI for acceptance of claim on 12.11.2024 and IA no. 1421 of 2024 filed by MHIT for acceptance of claim as OC on 02.12.2024. Copy of order dated 02.12.2024 in IA no. 1421 of 2024 is annexed as Annexure-H to this application
- 2.10. It is stated that Applicant conducted 5th CoC meeting on 11.03.2024 wherein RP informed the CoC members that CIRP Period of 180 days of the Corporate Debtor



expires on 06.10.2024. However, since the withdrawal of CIRP under Section 12A of the Code bearing IA no. 1345 of 2024 and application of MHI and MHIT bearing no. 1398 of 2024 and IA no. 1421 of 2024 is pending for adjudication, therefore, an application is required to be filed before this Tribunal for extension of CIRP Period by 90 days for which consent of CoC members is required. Upon deliberation, CoC members with 67.04% of voting right (present and voting) resolved in favour to file an extension application for the extension of CIRP Period for Corporate Debtor for further 90 days beyond 180 days. In this meeting, the Applicant was authorized to file the extension application for further 90 days to beyond 180 days. Copy of minutes of 5th COC Meeting dated 25.09.2024 is annexed as Annexure-I to this application.

2.11. It is stated that the Applicant filed an application bearing IA 1625 of 2024 on 04.10.2024 under Section 12(2) of IB Code, 2016 seeking extension of CIRP for further 90 days beyond 180 days. That the Adjudicating Authority vide its order dated was pleased



to allow the extension in CIR Period by 90 days w.e.f. 07.10.2024. Copy of order dated 03.12.2024 in IA no. 1625 of 2024 is annexed as Annexure – J to this application.

2.12. It is averred that Suspended Management had preferred appeal challenging the order dated 12.11.2024 and the order dated 15.10.2024 passed by the Adjudicating Authority bearing case title as *Mehul Patel (Member of Suspended Board of Anupam Port Cranes Corporation Ltd.) v. Nandish S. Vin & Anr* in Company Appeal (AT) (Insolvency) No.2191 of 2024 and Company Appeal (AT) (Insolvency) No. 2304 of 2024. That Hon'ble NCLAT dismissed the appeal vide order dated 23.12.2024 stating “19. *We, thus, do not find any error in the order dated 12.11.2024 passed by the Adjudicating Authority. The Appeal filed against the earlier order dated 15.10.2024 has become infructuous in view of the subsequent order dated 12.11.2024. In result, both the Appeals are dismissed*”. Copy of order dated 23.12.2024 passed by Hon'ble NCLAT in



CA(AT)(Ins) No. 2191 of 2024 and CA(AT)(Ins) No. 2304 of 2024 is annexed to this application as Annexure-K.

2.13. It is submitted that the Applicant called 6th CoC Meeting, however it was postponed and duly convened on 17.12.2024, wherein RP informed the CoC members that CIRP Period of the Corporate Debtor expires on 04.01.2025 and discussed on fresh EOI under Form-G. There was discussion in length regarding number of days to be taken for extension in CIRP Period and each member of COC were having different view, therefore Applicant conducted e-voting for extension in CIRP Period for 30 days, 60 days and 90 days respectively.

2.14. It is stated that upon Deliberation, CoC members with 92.35% of voting right (present and voting) resolved in favour to file an extension application for the extension of CIRP Period for Corporate Debtor for further 60 days beyond 270 days. In this meeting, the Applicant was authorized to file the extension application for further 90 days to beyond 270 days. Copy of minutes of 6th COC Meeting dated 16.12.2024 is annexed to this application as Annexure - L



2.15. It is averred that the Applicant filed an application bearing IA No. 98 of 2025 on 04.01.2025 under Section 12(2) of the Code seeking extension of CIRP for further 60 days beyond 270 days. That the Adjudicating Authority vide its order dated 24.01.2025 was pleased to allow the extension in CIRP Period by 60 days w.e.f. 05.01.2025. Copy of order dated 04.01.2025 in IA no. 98 of 2025 is annexed to this application as Annexure - M.

2.16. It is stated that the Applicant called 7th CoC Meeting, however it was postponed and duly convened on 19.02.2025, wherein the Applicant apprised the CoC members regarding the expiration of CIRP period on 05.03.2025. The CoC members discussed that since there is no resolution plan submitted by any resolution applicant and the Applicant had also apprised regarding the Liquidation option of the Corporate Debtor, the Applicant modified the agenda from Issuance of EOI to Filing of an application for Liquidation under Section 33 of the Code as the CoC member holding 92.35% voting share favoured for



Liquidation of Corporate Debtor. The Applicant further apprised the CoC members that in pursuance of the Liquidation Application, the Applicant shall conduct another meeting within a shorter notice.

2.17. The Applicant has further submitted that the CoC further discussed to make and file an application for initiation of Liquidation process in accordance with Section 33 of the Code. The CoC members with 92.35% of voting rights resolved to make and file an application for initiation of Liquidation process. Copy of the minutes of 7th CoC meeting dated 19.02.2025 along with voting sheet is annexed as Annexure-N to this application.

2.18. The Applicant has submitted that CoC conducted **Eighth CoC meeting** dated **01.03.2025** wherein the CoC members discussed the resolution for initiation of Liquidation process under Section 33 of the Code and further resolved and authorised to file an application before the Adjudicating Authority. The CoC members with **92.35%** of voting rights resolved to authorise Applicant to file an application for initiation of



Liquidation process. Applicant further states that as per the Legal Advisor of the Applicant the Resolution of initiation of liquidation shall expressly include 'RP authorised by CoC to file an application under Section 33 of the Code which was absent from the resolution of 7th CoC meeting. Hence the amended resolution was put to vote in the 8th CoC meeting.

2.19. The Applicant further stated that he apprised the CoC members regarding Regulation 39B, 39BA 39C & 39D. A detailed table in respect of regulations along with voting has been provided herein below:

Relevant Section/Regulation	Resolutions	Voting
Section 33 of the Insolvency and Bankruptcy Code, 2016	TO APPROVE THE INITIATION OF LIQUIDATION PROCESS UNDER SECTION 33 OF INSOLVENCY BANKRUPTCY CODE, 2016	92.35%
Regulation 39B Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016	APPROVAL FOR LIQUIDATION COST IN CASE OF LIQUIDATION OF THE CORPORATE DEBTOR.	To be Decided in SCC
Regulation 39BA Insolvency and Bankruptcy Board of	APPROVAL OF POSSIBILITY OF COMPROMISE AND	Not applicable in the present



India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016	ARRANGEMENT PURSUANT TO REGULATION 39BA OF IBBI REGULATIONS, 2016	CIRP
Regulation 39C Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016	APPROVAL OF SALE OF CORPORATE DEBTOR AS A GOING CONCERN AS PER REGULATION 39C OF IBBI REGULATIONS, 2016.	To be Decided in SCC
Regulation 39D Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016	FEE OF THE LIQUIDATOR AS PER REGULATION 39D OF IBBI REGULATION, 2016.	To be Decided in SCC

Copy of minutes of 8th CoC meeting dated 01.03.2025 along with Scrutiniser's report is attached as Annexure - O to this application.

2.20. It is stated that as the CoC members having 92.35% of voting rights voted in favour of liquidation, present application before the Tribunal to pass an order under Section 33(2) of the Insolvency and Bankruptcy code, 2016 for liquidation of Corporate Debtor.

Section 33(2):

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).

- 2.21. It is submitted that in the view of aforesaid facts and circumstances of the case, the Applicant herein has preferred this Application before the Tribunal seeking liquidation of the Corporate Debtor under Section 33. For convenience of this Tribunal, Applicant has prepared Form-H. Copy of Form-H is attached to this application as Annexure-P.
- 2.22. Hence, the Applicant RP herein has requested this Tribunal to allow the present application and pass an order allowing liquidation of Corporate Debtor as 330 days have expired on 05.03.2025. The delay of 2 days in filing of application is due to preparation of CoC minutes dated 01.01.2025, drafting and filing of present application. The same may be condoned by this Tribunal.
3. We have heard the counsel for the applicant RP and perused the material available on record.

4. Observation and Directions of the Tribunal:



- 4.1. The present Application has been filed by the Resolution Professional under Section 33 of the Code, upon completion of 330 days from the commencement of CIRP and failure to receive any resolution plan, with the Committee of Creditors having resolved with 92.35% voting share in favour of liquidation.
- 4.2. It is also observed that the Applicant has filed the present application with a delay of two days, for which condonation has been sought. The delay of two days in filing the application is hereby condoned, considering that the same has been sufficiently explained and in view of the interest of justice.
- 4.3. The provisions of Section 33(2) of the Code are reproduced below: -

“... (2) 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 approved by not less than sixty-six per cent of the voting share 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).

[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any



time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]”.

4.4. The Hon'ble Supreme Court, in **K. Sashidhar v. Indian Overseas Bank & Ors., Civil Appeal No. 10673 of 2018**, held that the commercial wisdom of the Committee of Creditors is **non-justiciable** and not subject to judicial review on merits. However, such decisions are subject to limited judicial scrutiny only to the extent of ensuring conformity with the provisions of the Code and other applicable laws.

4.5. IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18.07.2023 in exercise of its powers conferred under Section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth.

4.6. In view of the above findings, it is hereby ordered as follows: -

- a) The Corporate Debtor **Anupam Port Cranes Corporation Limited** is admitted into liquidation



in terms of the provisions of section 33(2) of the Insolvency and Bankruptcy Code, 2016, to be conducted in accordance with Chapter III of the Code and the IBBI (Liquidation Process) Regulations, 2016 which shall be effective from the date of this order.

- b) In terms of the above circular of IBBI, we hereby appoint, **Sh. Rajendrakumar Radhakishan Kabra** an IP having registration no. IBBI/IPA-001/IP-P-02385/2021-2022/13835, E-mail ID: rajendra_kabra@rediffmail.com, Mobile No. 98254-12653 as a Liquidator of the Corporate Debtor i.e. **Anupam Port Cranes Corporation Limited** as per the panel suggested by IBBI for this Bench for the period of January, 1, 2025 to June 30, 2025, as the Liquidator of the Corporate Debtor to carry the liquidation process.
- c) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- d) A fresh moratorium under Section 33(5) of the Code is declared, prohibiting the institution or continuation of suits or proceedings against the Corporate Debtor, except as provided under the Code, effective from the date of this order until the completion of the liquidation process.



- e) The Liquidator shall take charge of the Corporate Debtor's assets, books, and records forthwith and perform all duties as prescribed under Sections 35 to 50 of the Code and the IBBI (Liquidation Process) Regulations, 2016, including exploring the sale of the Corporate Debtor as a going concern as recommended by the CoC in term of Regulation 32A of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- f) The Liquidator is directed to file a preliminary report within 75 days of this order, as per Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016, and submit periodical progress reports to this Tribunal.
- g) The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- h) All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the Liquidator.
- i) The Operational Creditor and Financial Creditor (SBI) as well as the personnel of the Corporate Debtor are directed to extend all cooperation to the



Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

- j) The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- k) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.
- l) This liquidation order shall be deemed to be 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.
- m) This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator



will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees could also be informed of this liquidation order through their association.

- n) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations, and also file its response for disposal of any pending Company Applications during the process of liquidation.
- o) The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
- p) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the Resolution Professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities for records and necessary action, if any.



The Registrar of Companies shall update the Corporate Debtor's status on the MCA portal accordingly.

- q) Liberty is granted to the Liquidator to approach this Tribunal for any further directions or clarifications as may be required during the liquidation process.

5. Therefore, **IA(Liq.) No. 2 of 2025** in CP(IB) No. 23 of 2024 is ***allowed*** and disposed of, accordingly.

6. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

SANJEEV KUMAR SHARMA
MEMBER(TECHNICAL)
HG

Sd/-

SHAMMI KHAN
MEMBER(JUDICIAL)