



IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI

IA/1527/CHE/2023 in CP(IB)/120/CHE/2022

(Filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

In the matter of *SHAFT DEVELOPERS PRIVATE LIMITED*

Anil Kumar Khicha,
Interim Resolution Professional of
Shaft Developers Private Limited
No.184, Poonamalle High Road,
6-FF, Golden Enclave, 1st Floor,
Kilpauk, Chennai – 600 010

... Applicant

Order Pronounced on 12th September 2023

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SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : *Dominic S.David, Advocate*

ORDER

(Hearing Conducted through VC)

Per: SANJIV JAIN, MEMBER (JUDICIAL)

This is an application filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 seeking reliefs as follows:

(a) to pass an order of liquidation of the Corporate Debtor in terms of Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

(b) to appoint Mr.Prakul Thadi (IBBI Registration No: IBBI/IPA-002/IP-N01149/2021-2022/13806) as the Liquidator of the Corporate Debtor at a fee as per Regulation 4 (2)(b) of IBBI(Liquidation Process) Regulations, 2016.





(c) to pass such other order or orders as this Hon'ble Tribunal may deem fit.

2. From the averments made in the application, it is seen that the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor namely, Shaft Developers Private Limited was initiated on 31.03.2023 and the Applicant herein was appointed as the Interim Resolution Professional (IRP).

3. Pursuant to the CIRP order, the IRP issued a Public Announcement of the CIRP on 05.04.2023 inviting claimants of the Corporate Debtor to submit their claims by 17.04.2023.

4. The list of Financial Creditors and the amount of claims admitted as well as the voting share of the (Committee of Creditors) CoC is as follows:

SNo.	Name of Financial Creditor	Amount Claimed (in INR)	Amount Admitted (in INR)	Voting Share (in %)
1	M/s. Piramal Capital & Housing Finance Limited	82,26,11,662/-	82,26,11,662/-	100%



5. First meeting of CoC was held on 03.05.2023 wherein the applicant apprised the CoC that the Corporate Debtor has no business operations as of today and as on Insolvency Commencement Date, the status of the Corporate Debtor was not a going concern.

6. The Applicant vide emails dated 25.05.2023 and 30.05.2023 requested the sole member of the CoC to consider approving the eligibility criteria to enable the RP to publish Form G i.e., invitation for expression of interest for submission of resolution plans by Prospective Resolution Applicants (PRA's).

7. However, the sole member of the CoC vide email dated 30.05.2023 requested the Applicant to withhold the publication of Form G as they are in the process of evaluating strategy to be adopted for all the 19 entities who are all the co-borrowers to the loan disbursed to the Corporate Debtor and that they will require further time to internally finalize the strategy and initiate appropriate steps to that effect, as the corporate debtor is not a going concern. As a result, the Applicant withheld the publication of Form G. The e-mail correspondence between the Applicant and the CoC is enclosed as *Annexure-F* of the application typeset.

S. Venkatesh

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8. In the 2nd CoC meeting held on 20.06.2023, the CoC after discussions and deliberations resolved to liquidate the Corporate Debtor with 100 % voting. The minutes of the 2nd CoC meeting are annexed at *Annexure-G* of the Application typeset and the extract of Resolution is reproduced hereunder:

Item No. 16

TO APPROVE INITIATION OF LIQUIDATION PROCESS UNDER SECTION 33 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 AND APPOINTMENT OF LIQUIDATOR

During discussion in agenda item 4, the proposal to liquidate the Corporate Debtor was put forward by the CoC. Accordingly, the Committee may accord its approval for initiation of the liquidation process under Section 33(2) of the Code, the appointment of Liquidator, and the determination of the Liquidator's fee, by passing the following resolution:

“RESOLVED THAT pursuant to Section 33(2) of the Insolvency and Bankruptcy Code, 2016, the approval of the committee of creditors be and is hereby accorded to liquidate the corporate debtor and the Interim Resolution Professional, Mr. Anil Kumar Khicha (IBBI Registration No.: IBBI/IPA-001/IP-PO0422/2017- 18/10745) be and is hereby authorised to file with the Hon'ble NCLT, the decision of the Committee of Creditors to liquidate the corporate debtor,”



“RESOLVED FURTHER THAT Mr. Prakul Thadi (IBBI Registration No: IBBI/IPA-002/IP- NO1149/2021-2022/13806) shall act as the Liquidator of the Corporate Debtor at a fee as per Regulation 4(2)(b) of IBBI (Liquidation Process) Regulations, 2016”.

At the request of the Committee, the above resolution was put up for voting through electronic means.

9. It is also seen from the additional typeset filed by the applicant that notice of the 1st and 2nd CoC meeting was issued to the Suspended Board of Directors of the Corporate Debtor. Further, upon perusal of the attendance sheet, it is seen that one of the Suspended Board of Directors of the Corporate Debtor had attended the meeting in which the decision to liquidate the Corporate Debtor was taken by the CoC.

10. The proposed Liquidator, Mr.Prakul Thadi has also filed his written consent to act as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorization for Assignment (AFA) for the said person is valid up to 07.09.2024.

S. Verkhun

[Handwritten signature]



11. The applicant has annexed **Form-H** and the same is placed at *Annexure-J* of the Application typeset. It is seen from **Form-H** that there are no PUFÉ applications pending in this matter.

12. It is thus seen from the records that the Committee of Creditors in the 2nd COC meeting held on 20.06.2023 has unanimously resolved to liquidate the Corporate Debtor. We also find that the present matter satisfies the mandate under Section 33(2) of the IBC, 2016. The Section 33(2) of the IBC 2016 is extracted hereunder:

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 approved by not less than sixty-six percent 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).”

13. In view of the aforesaid, we order for the liquidation of the Corporate Debtor viz., Shaft Developers Private Limited.

14. We hereby appoint *Mr. Prakul Thadi*, with Reg. No. *IBBI/IPA-002/IP-N01149/2021-2022/13806 (E-Mail Id: prakulthadi@hotmail.com)* (*AFA is valid up to 07.09.2024*) as the Liquidator of the Corporate Debtor, to carry



out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- e) 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.

S. Varshma

[Signature]



f) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

15. The Registry is directed to communicate this order to the Registrar of Companies, concerned and to the Insolvency and Bankruptcy Board of India;

16. The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

17. Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

S. Venkatar

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18. With the above said directions, this IA/1527/CHE/2023 filed for Liquidation of the Corporate Debtor stands **allowed**.

— Sd —

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

— Sd —

SANJIV JAIN
MEMBER (JUDICIAL)

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