

**THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH
AT NEW DELHI**

C.A. 2446 (PB) /2019

IN

Company Petition No. (IB) – 439 (PB) /2019

In the matter of:

Mr. Lekhraj Bajaj

Applicant/Interim Resolution Professional

AND

In the matter of:

Vipul Travels Private Limited

Corporate Debtor

*Under Section 33 (2) of the Insolvency and Bankruptcy Code,
2016 for liquidation of the corporate debtor*

Judgment delivered on: 03.12.2019

Coram:

MR. CHIEF JUSTICE (RTD.) M. M. KUMAR HON'BLE PRESIDENT

MR. S. K. MOHAPATRA, MEMBER (TECHNICAL)

For the IRP:

Mr. Mohit Nandwani, Advocate.



ORDER

S. K. Mohapatra, Member

1. This is an application filed by the Interim Resolution Professional under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the “Code”) for issuance of directions for initiation of liquidation of the corporate debtor, M/s Vipul Travels Private Limited.
2. The facts in brief are that the sole operational creditor, Bharti Airtel Limited, had filed an application under Section 9 of the Code bearing number IB-439(PB)/2019 for initiation of Corporate Insolvency Resolution Process against the corporate debtor, M/s Vipul Travels Private Limited. The said application was admitted by this Tribunal on 30.04.2019 initiating Corporate Insolvency Resolution Process against the corporate debtor M/s Vipul Travels Private Limited and there in appointed Mr. Lekhraj Bajaj, as the Interim Resolution Professional.
3. In terms of Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016, (“IBBI



Regulations”) the Interim Resolution Professional made public announcement in Form A dated 08.05.2019 in the following newspapers:

Newspaper	Date	Language	Edition
Financial Express	08.05.2019	English	Delhi
Jansatta	08.05.2019	Hindi	Delhi

4. As per the public announcement dated 08.05.2019 last date for submission of claims by the creditors was 13.05.2019. A copy of the aforesaid public announcement was also uploaded on the website of IBBI on 08.05.2019.
5. In pursuance to the public announcement, only one operational creditor lodged claim, which was admitted and a Committee of Creditors was constituted comprising of the single operational creditor on 20.05.2019.

CoC	Type of Creditor	Voting Share
Bharti Airtel Limited	Operational Creditor	100%



6. The first meeting of the Committee of Creditors was convened on 28.05.2019, wherein Interim Resolution Professional apprised the Committee of Creditors that along with his team members, he had visited the registered office of the corporate debtor situated at 35, GF R/S KH No. 316, Village Neb. Sarai, New Delhi – 110068 on 10.05.2019 and the corporate office situated at C-140, 1st Floor, Sector – 63, Noida 201301 on 21.05.2019 but no company was found on the said addresses. It was also apprised that as per the financial statements submitted with the ROC for the year, 2016-17, the corporate debtor does not have any fixed assets.
7. During the first meeting of Committee of Creditors, the resolution to appoint the Interim Resolution Professional as the Resolution Professional was rejected. In the absence of appointment of a regular Resolution Professional, the Interim Resolution Professional continued to perform the functions of the Resolution Professional as per Regulation 17(3) of the IBBI Regulations till an RP is appointed under Section 22 of the Code.



8. It is submitted that Form G, inviting Resolution Plan from prospective Resolution applicants was published on 10.07.2019 and subsequently on 16.08.2019, however, no EOI was received in respect of the corporate debtor.
9. In the 5th meeting of the Committee of Creditors held on 15.10.2019 Interim Resolution Professional apprised the Committee of Creditors that the last date of closure of Corporate Insolvency Resolution Process is 26.10.2019 and no EOI was received so far. The Committee of Creditors in the said meeting unanimously with 100% voting resolved to liquidate the Corporate Debtor and the IRP/Applicant was directed to file necessary application in this regard.
10. The relevant provisions of sub-section (2) of Section 33 of the Code envisages that:

“Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates that 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 purposes 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.”

11. Therefore, as per the mandate of the Code liquidation has to follow as recommended by the Committee of Creditors. Admittedly no Expression of Interest was received despite two public advertisements and the Committee of Creditors unanimously with 100% voting share decided to initiate liquidation of the corporate debtor upon failure of resolution process. Adherence to statutory requirement has to be in toto. When the language of the Code is clear and explicit the Adjudicating Authority must give effect to it whatever may be the consequences.



- 12.** In the factual background and in the absence of any Expression of Interest, there is no other alternative left but to order in conformity with the decision of the Committee of Creditors with 100 % voting share, *for liquidation of the corporate debtor under Section 33 (2) of the Code.*
- 13.** The applicant interim resolution professional has shown his inability to act as a liquidator in the liquidation process and during hearing there was a request to appoint a liquidator from the penal to carry on the liquidation process in respect of the Corporate Debtor.
- 14.** Accordingly, the liquidator is to be appointed from the list of resolution professionals for appointment of liquidator as made available by the Insolvency and Bankruptcy Board of India.
- 15.** In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s Vipul Travels Private Limited in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:



- a.** Mr. Kanti Mohan Rustagi with Registration No. IBBI/ IPA-002 / IP-N00097 / 2017-18 / 10240, with email kanti.rustagi@patanjaliassociates.com is appointed as Liquidator in terms of Section 34(1) of the Code.
- b.** The liquidator is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c.** The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d.** 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;



- e.** The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations;
- f.** The liquidator shall investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (1) of the Code;
- g.** The liquidator shall also follow up the pending applications for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law;
- h.** The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;



- i.** Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;
- j.** C.A. 2446 (PB) /2019 filed in IB-439 (PB)/2019 is disposed of in the aforesaid terms.

— Sd —

3.12.2019

(M.M. KUMAR)
PRESIDENT

— Sd —

(S. K. MOHAPATRA)
MEMBER (T)