

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

I.A. 1637 OF 2023

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Mr. Naren Sheth

Resolution Professional/
...Applicant

In the matter of

C.P.(IB) No. 425/MB/2021

State Bank of India

Financial Creditor

Vs.

Chomu Mahla Toll Road Private Limited

Corporate Debtor

Order delivered on: 09.05.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Mr. Arjun Sathees, Advocate

ORDER

Per: Prabhat Kumar, Member (Technical)

1. The above application I.A. No. 1637/2023 is filed by Mr. Naren Sheth, (hereinafter referred to as the “Applicant”) seeking liquidation of Chomu Mahla Toll Road Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as “the Code”).
2. The brief facts of the application are as follows:
 - a. The Applicant mentions that this Tribunal vide its order dated 19.10.2022 in Company Petition No. 425/IBC/MB/2021 admitted the petition under Section 7 of the Code, filed by State Bank of India (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. Mr. Naren Sheth, was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
 - b. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G dated 23.01.2023, the following Prospective Resolution Applicant (PRAs) were shortlisted after due diligence.
 - i. Vision Distribution Private Limited;
 - ii. UV Stressed Assets Management Private Limited;
 - iii. Sunny Infraprojects Private Limited;

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- iv. Navneet Garg
v. Kalyan Toll Infrastructure Limited.

- c. The Applicant further apprised the CoC that while Kalyan Toll Infrastructure Limited had expressed its unwillingness to participate in the resolution process, Sunny Infraprojects Pvt. Ltd. had sought additional information and there was no response from other PRAs.
- d. The Applicant further submits that in the 5th CoC meeting held on 27.03.2023, he informed the CoC that no request for extension of timelines for submission of additional information was received by him from PRAs. The Corporate Debtor being an SPV was constituted for the limited purpose of construction of the Two-Lane Road between Chomu-Mahala and as such, has no assets except receivables under the Concession Agreement.
- e. In view of the above facts, the Applicant submits that in the Fifth CoC Meeting held on 27.03.2023, the CoC with 100% voting passed a resolution to liquidate the company and authorized the RP to file liquidation application under Section 33 of the Code. The Resolution passed in the meeting is reproduced hereinunder: -

“RESOLVE THAT, Mr. Naren Sheth, Resolution Professional, IBBI/IPA-001/IP-P0013/2017-18/10275 appointed under CIRP, be instructed to file an application with NCLT Mumbai seeking Liquidation of the Corporate Debtor under Section 33(1) of the Insolvency and Bankruptcy Code, 2016”

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the considered opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

4. The above I.A. No. 1637/2023 is allowed and the Corporate Debtor Chomu Mahla Toll Road Private Limited is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
 - a. **Mr. Naren Sheth**, having Registration No. IBBI/IPA-001/IP-P0013/2017-18/10275, having office at: 1014-1015, Prasad Chamber, Tata Road No.1, Opera House, Charni Road (East), Mumbai, email- ncsheth@mkindia.com is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

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- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
 - c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
 - e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
 - f. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - g. That on having liquidation process initiated, 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.

- h. This liquidation order u/s 33(7) 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. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.
- j. With the above directions, the I.A. No.1637/2023 filed u/s33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)