

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-III**

**M. A. No. 510 of 2020  
In  
C.P. No. 2823/IB/2018**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

In the matter of  
M/s. Ultratech Cement Ltd.  
... Operational Creditor

V/s.  
Silveroak Commercial Ltd.  
... Corporate Debtor

**M.A. No. 510/2020**

Mr. Alkesh Rawka  
... Applicant/  
Resolution Professional

**Order delivered on 16.12.2020**

**Coram:**

Hon'ble Shri H. V. Subba Rao, Member (Judicial)  
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

**Appearance (through video conferencing):**

**For the Applicant:** Mr. Amit Tungare, Advocate

*Per Shri Shyam Babu Gautam, Member (Technical)*

**ORDER**

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/s. Silveroak Commercial Ltd.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. To pass an order under Section 33 of the Insolvency and Bankruptcy Code, 2016 commencing the liquidation process of the Corporate Debtor;*
- b. To appoint Mr. Harshad Deshpande as a Liquidator of Corporate Debtor;*

2. The Adjudicating Authority vide its order dated 01.05.2019 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Silveroak Commercial Ltd., wherein Mr. Rajendra Kumar Khandelwal, was appointed as Interim Resolution Professional (IRP). Thereafter, in the 3<sup>rd</sup> Committee of Creditors (CoC) meeting held on 16.07.2019, Mr. Alkesh Rawka, was resolved to be appointed as Resolution Professional (RP). and the same was approved by this Bench vide an Order dated 19.08.2019.
3. The RP submits that the public announcement was made on 05.05.2019, in "Times of India" in English and in "Punyanagari" regional language in Marathi.
4. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 10.08.2019. Thereafter, no EoI was invited and no Resolution plan was received.
5. Further, the RP states that the 90 days period of CIRP was extended which came on end on 26.01.2020, vide an order dated 23.10.2019 by this Bench.
6. The CoC in its 6<sup>th</sup> meeting held on 05.10.2019 decided to appoint a Valuer. The RP accordingly appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
7. The RP submits that another advertisement was published inviting expression of interest (EOI) in Form G, which was published on 18.10.2019 in "Free Press Journal" in English and in "Deshdoot" in Marathi.
8. RP submits that the pursuant to the publication he had received four EoI's from following;
  - a. Nashik Merchant Cooperative Bank Ltd. (CoC Member)
  - b. Galactico Cooperative Services Ltd.
  - c. Mr. Prakash Adke and

d. Mr. Amar Patil (Suspended Director).

9. The RP submits that among the above four resolution Applicants only two Resolution Applicants have submitted their Resolution plan i.e. M/s. Galactico Corporate Services Ltd. and P. L. Adke. The PRA's as stated above did not satisfy the eligibility criteria and hence the both resolution plans were rejected by the CoC. Mr. Amar Patil being suspended Director was disqualified under Section 29(A)e) of the Insolvency and Bankruptcy Code, 2016.
10. The CoC in the 10<sup>th</sup> CoC meeting held on 21.01.2020, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company. The following Resolution was passed;

*“Resolved that, pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016 the approval of members of Committee of Creditors be and is hereby accorded for liquidation of Corporate Debtor.”*
11. Hence, the CoC in its 10<sup>th</sup> meeting held on 21.01.2020, unanimously passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
12. Mr. Harshad Deshpande, has given consent and agreed to act as liquidator to carry on the process of liquidation.
13. Upon hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

**ORDER**

- a. The Miscellaneous Application is hereby allowed.

- b. Mr. Harshad Deshpande, Registration No. IBBI/IPA-001/IP-P00166/2017-2018/10335, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. 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.
- d. 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.
- e. The Liquidator appointed under section 34(1) of the Code. Will have 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.
- f. 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.
- g. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. 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.
- i. 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.

- j. 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.

Sd/-

**SHYAM BABU GAUTAM**  
**MEMBER (TECHNICAL)**

Sd/-

**H. V. SUBBA RAO**  
**MEMBER (JUDICIAL)**