

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

**COURT – IV**

15. **IA-2815/2023 in C.P.(IB)/574(MB)/2022**

CORAM:

SHRI PRABHAT KUMAR  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **07.07.2023**

NAME OF THE PARTIES:

Dhanashree Bhatkal

Vs

Apex Business Services Private Limited

SECTION: 7, 33(1) (b) (i) to (iii) r/w 33(3) OF INSOLVENCY AND BANKRUPTCY CODE,  
2016.

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**ORDER**

1. Adv. Raina Birla a/w Deepali Jaiswar, Ld. Counsel for the Applicant present.
2. This is an application filed by Mr. Anil Kashi Drolia, Resolution Professional of the Corporate Debtor on 29.06.2023 under Section 33(2) and 34 of Insolvency and Bankruptcy Code, 2016 r/w Regulation 4(3) of the IBBI (Liquidation Process) Regulations, 2016, seeking liquidation of Apex Business Services Private Limited.

**Brief facts of the Application:**

3. This Tribunal vide an order dated 17.02.2023 in Company Petition bearing C.P.(IB)-574(MB)/2022 filed under Section 7 of the Code, by Dhanashree Bhatkal (hereinafter referred to as the “Financial Creditor”) is admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against Apex Business Services Private Limited, (hereinafter called as the “Corporate Debtor”). The applicant was appointed as Interim Resolution Professional (IRP) by this Tribunal vide the above admission order. He was

later appointed as Resolution Professional (RP) in the first CoC meeting held on 23.03.2023.

4. The Applicant submits that he made public announcement in Form A on 22.02.2023 in two newspapers viz. Financial Express and Navkal in Mumbai.
5. The Applicant submits that he constituted the Committee of Creditors (CoC) and filed the report before the NCLT on 17.03.2023.
6. The Applicant further submits that two registered valuers viz. Girish Powar and Associates and Jayesh Kumar Shah were appointed for the determination of fair value and liquidation value of the Corporate Debtor.
7. The Applicant further submits that during the second CoC meeting held on 17.04.2023, he proposed to publish Form G for inviting Expression of Interest (EoI). However, the CoC was of the opinion that since the Corporate Debtor is not operating since last four years and even the registered office which is now closed was taken on rent and further there are no other assets of the Corporate Debtor and no cash generation by the company in the past years, it is not viable to stretch the CIRP which will only add up to more cost. Considering these facts, the CoC members decided to initiate direct liquidation proceedings against the Corporate Debtor as per Section 33(2) of the Code and passed necessary resolution after placing the same for voting, the extract of the same is reproduced below:

*“RESOLVED THAT pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016, the approval of Members of Committee of Creditors be and hereby accorded for liquidation of Corporate Debtor”.*

The above resolution was passed with 100% majority in e-voting held from 19.04.2023 to 21.04.2023.

8. The Applicant further submits that due to personal reason he would not be able to continue as Liquidator of the Corporate Debtor, and requested this Tribunal to appoint a Liquidator for the Corporate Debtor.
9. It is under the above circumstances, the Applicant/Resolution Professional filed this Application seeking liquidation of the Corporate Debtor, appointing another professional as Liquidator.
10. Considering the facts and circumstances as submitted by the Applicant in the Application and Counsel appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
  - a. IA-2815/2023 in CP(IB)-5740(MB)/2022 filed by the Applicant for the Liquidation of the Corporate Debtor viz. Apex Business Services Private Limited (CIN: U74999MH2010PTC210539) is allowed and the company to be liquidated in the following manner:
  - b. Mr. Manoj Anant Mainkar, having Registration No.: IBBI/IPA-001/IP-P01221/2018-2019/11926 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code to conduct the liquidation process of the Corporate Debtor.
  - c. 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, hereafter ceased to exist and henceforth be vested with the Liquidator.
  - f. 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. 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.
  - h. 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
  - i. 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.
11. The Applicant is discharged from his duties as Resolution Professional of the Corporate Debtor. The Applicant/RP is directed to file his claim for the dues, if any, before the Liquidator who shall clear all his dues, in priority.

The RP is directed to handover all records pertaining to the Corporate Debtor to the newly appointed Liquidator forthwith.

12. With the above directions, the IA-2815/2023 in CP(IB)-574(MB)/2022 filed u/s 33(2) by the Applicant is hereby **disposed** of.

Sd/-  
**PRABHAT KUMAR**  
**Member (Technical)**

Sd/-  
**KISHORE VEMULAPALLI**  
**Member (Judicial)**

07.07.2023/pvs