

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**COURT ROOM NO. 1,**

**MUMBAI BENCH**

IA No. 1282 of 2021

in

C.P. (IB) No. 2815/MB/2019

**Interlocutory Application under Section 33(2) of the Insolvency and  
Bankruptcy Code, 2016**

**Mr. Ajay Agrawal, Chartered Accountant,**

Resolution Professional of

**PAN INDIA INFRA PROJECTS PVT LTD,**

Registration No.: **IBBI/IPA-001/IP-P00046/2017-18/10120**

Nakshatra, 377, Gandhinagar, Ambazari Road,

Nagpur – 440010

Email ID – **cirp.paninda@gmail.com**

**...Applicant**

*In the matter of*

**MS GARG ENTERPRISES**

**...Operational Creditor**

*V/s*

**PAN INDIA INFRA PROJECTS**

**PVT LTD**

**...Corporate Debtor**

*Order delivered on 04.10.2023*

**CORAM:**

**Hon'ble Member (Judicial): SH. Justice Virendrasingh Bisht (Retd.)**

**Hon'ble Member (Technical): SH. Prabhat Kumar**

IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT ROOM NO. 1,  
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*IA No. 1282 of 2021 in C.P. (IB) No. 2815/MB/2019*

*Appearance:*

**For the Applicant** : Mr. Rishabh S. Khemuka, Advocate

*Per* : **Prabhat Kumar, Member, (Technical)**

**ORDER**

1) This is an Interlocutory Application filed by the Resolution Professional **Mr. Ajay Agrawal** under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating Liquidation Process against **PAN INDIA INFRA PROJECTS PVT LTD** (Corporate Debtor).

2) The facts leading to the case in hand are as follows:

- a. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Tribunal vide order dated **16.07.2020** upon admission of a Company Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (the Code) and the Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor, who subsequently confirmed as Resolution Professional of the Corporate Debtor.
- b. The IRP made a public announcement on **25.07.2020** for inviting claims from the creditors of the Corporate Debtor. After receipt of

IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT ROOM NO. 1,  
MUMBAI BENCH

*IA No. 1282 of 2021 in C.P. (IB) No. 2815/MB/2019*

the claims, the IRP constituted the Committee of Creditors (CoC) of the Corporate Debtor which comprises of Seven (7) Financial Creditors. The constitution of the Committee of Creditors was duly informed to this Tribunal *vide* report dt. 20.08.2020.

- c. Subsequently, the Applicant had conducted 4<sup>th</sup> CoC meeting on 22.02.2021, where in absence of receipt of any Resolution Plan from Prospective Resolution Applicant by 02.02.2021, it was decided neither fresh EOIs would be invited nor the CIRP period be extended. It was further decided that initiating Liquidation against the Corporate Debtor would be the best course of action. The said Resolution of initiating Liquidation was put to E-voting and the same was unanimously approved with 100% voting share and it was finalised that Liquidation Process be initiated against the Corporate Debtor.

- 3) It is submitted that the Corporate Debtor was admitted in to Corporate Insolvency Resolution Process on **16.07.2020** and the decision of Liquidation was taken on **18.03.2021**. As per section 33 (2) of the Insolvency and Bankruptcy Code, 2016, the present application can be filed at any time during the Corporate Insolvency Resolution Process but

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT ROOM NO. 1,  
MUMBAI BENCH**

*IA No. 1282 of 2021 in C.P. (IB) No. 2815/MB/2019*

before finalization of Resolution Plan. However, due to the nation wide lockdown imposed under the Disaster Management Act, 2005, the Applicant herein could not file an Interlocutory Application within 180 days from **16.07.2020**, before this Tribunal.

- 4) To buttress his argument, the Applicant submits that as per the earlier orders and order dated 08.03.2021 passed by the Hon'ble Supreme Court in *Suo Moto* Writ Petition no. 3 of 2020, the period of limitation for any suit, appeal, application or proceeding from 15.03.2020 till 14.03.2021 shall stand excluded and notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. Therefore, the Applicant submits that the present Application is within limitation as prescribed under section 33 (2) of the Code.
  
- 5) It would further appear that the members of CoC does not want to proceed in the matter of Corporate Insolvency Resolution Process of **PAN INDIA INFRA PROJECTS PVT LTD** in accordance with provisions of the IBC, 2016. The CoC in its wisdom has resolved with 100% voting share in favour of the Liquidation of the Corporate Debtor. The copy of the same is annexed to the Application.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT ROOM NO. 1,  
MUMBAI BENCH**

*IA No. 1282 of 2021 in C.P. (IB) No. 2815/MB/2019*

- 6) Further, the matter was listed on Board on 12.09.2023, on which date Ms. Grishma Dalvi, Ld. Counsel for the J.C. Flower, who is one of the members of Committee of Creditors submits that they would continue with the same Resolution Professional as the Liquidator of the Corporate Debtor.
- 7) This Authority has no reason before it to take a contrary view in terms of Section 33(2) of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans in another round also. Therefore, this Tribunal has no option than to pass an order for liquidation of the Company in the manner laid down in Chapter III of the Code. Hence ordered.

**ORDER**

- a) The Application be and the same is allowed. The Corporate Debtor, **PAN INDIA INFRA PROJECTS PVT LTD**, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) **Mr. Ajay Agrawal** having Registration No. **IBBI/IPA-001/IP-P00046/2017-18/10120** is appointed as Liquidator of **PAN INDIA INFRA PROJECTS PVT LTD**.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT ROOM NO. 1,  
MUMBAI BENCH**

*IA No. 1282 of 2021 in C.P. (IB) No. 2815/MB/2019*

- 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 Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT ROOM NO. 1,  
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*IA No. 1282 of 2021 in C.P. (IB) No. 2815/MB/2019*

transactions as may be notified by the Central Government in consultation with any financial sector regulator.

- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT ROOM NO. 1,  
MUMBAI BENCH

*IA No. 1282 of 2021 in C.P. (IB) No. 2815/MB/2019*

- l) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
- n) Registry shall furnish a copy of this Order to the **Insolvency and Bankruptcy Board of India, New Delhi; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra; the Registered Office of the Corporate Debtor;** and the Liquidator, **Mr. Ajay Agrawal.**
- 8) With the aforesaid observations and directions, the Interlocutory Application bearing **IA No. 1282 of 2021**, stands disposed of as Allowed.
- 9) There would however be no order as to costs. Ordered Accordingly.

Sd/-  
**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

Sd/-  
**JUSTICE VIRENDRASINGH BISHT**  
**MEMBER (JUDICIAL)**

Vedant Kedare