

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH- II
KOLKATA**

**I.A. (IB) No. 619/KB/2022
and
I.A. (IB) No. 622/KB/2022
in
CP(IB)No. 346/KB/2018**

**In the matter of
State Bank of India**

...Financial Creditor

versus

Infar Tie Up Pvt. Ltd.

...Corporate Debtor

I.A. (IB) No. 619/KB/2022

An application under section 33(2) of the Insolvency and Bankruptcy Cde, 2016.

**Binay Kumar Singhanian
(Resolution Professional)**

... Applicant

I.A. (IB) No. 622/KB/2022

State Bank of India

... Applicant

versus

**Binay Kumar Singhanian
(Resolution Professional)**

... Respondent

Date of Hearing: 22.07.2022

Date of pronouncement: 26.08.2022

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances:

For the Resolution Professional: Mr. Arun Kumar Gupta, CA

For the Applicant in I.A. (IB) No. 622/KB/2022: Mr. Ramesh Chander Prusti, Advocate

Mr. Robin Singha, Advocate

COMMON ORDER

Per: Rohit Kapoor, Member (Judicial)

1. The Court convened through hybrid mode.
2. This Adjudicating Authority *vide* order dated 14 December 2021, admitted C.P. (IB) No. 346/KB/2018 and Corporate Insolvency Resolution Process (CIRP) was initiated against In-far Tie Up Private Limited (“Corporate Debtor”) and Mr. Binay Kumar Singhania, was appointed as the Interim Resolution Professional (“IRP”) of In-far Tie Up Private Limited.
3. The IRP made a public announcement on 16 December 2021 in Financial Express (“English”) and EkDin (“Bengali”). The Committee of Creditors (“CoC”) was constituted with two Financial Creditors *viz.* State Bank of India and Tata Capital Housing Finance Limited.

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4. The instant application has been by Binay Kumar Singhania, the Resolution Professional In-far Tie Up Private Limited under section 33(2)

of the Insolvency and Bankruptcy Code, 2016 (“Code”) to initiate liquidation process against In-far Tie Up Private Limited.

5. The Resolution Professional published Form G and the last date of submission was 12 March 2022 but no Expression of Interest (“EoI”) was received in response to the invitation of EoI. In the 4th CoC meeting held on 21 March 2022, the CoC resolved to republish the EoI as several queries were received by the Resolution Professional.
6. Form G was re-published and the last date of submission of EoI was 07 April 2022. No EoI was received.
7. The Resolution for liquidation of the Corporate Debtor was approved by a majority vote of 100% voting shares by the members of the Committee of Creditors in the 6th CoC meeting held on 10 June 2022.

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8. The instant application had been filed under section 27 of Insolvency and Bankruptcy Code, 2016 by the State Bank of India, seeking appointment of Mr. Manish Jain as the Resolution Professional.
9. In 6th CoC meeting held on 10 June, 2022, the CoC passed a resolution for replacement of Mr. Binay Kumar Singhania with Mr. Manish Jain.
10. In the same meeting, the CoC resolved to put the Corporate Debtor into liquidation which was approved by a majority of 100% of CoC members in view of the circumstances mentioned in the minutes. The Resolution to appoint Mr. Binay Kumar Singhania as the Liquidator was not approved in the said meeting.
11. This application has been filed by State Bank of India which is having 98.67% of the voting share in CoC.
12. We have considered the submission made by the learned Authorised Representative on behalf of the Applicant/RP and the learned Counsel on

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behalf of the Applicant in I.A. (IB) No. 622/KB/2022 and perused the record.

13. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Applicant before the confirmation of Resolution Plan, where the Committee of Creditors decide to liquidate the Corporate Applicant with more than sixty-six percent voting share.

14. This Adjudicating Authority, therefore, hereby orders as follows: -

- a. Prayers as sought for in **I.A. (IB) No. 619/KB/2022** filed by Mr. Binay Kumar Singhania, Resolution Professional of **Infar Tie Up Private Limited**, the Corporate Applicant, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
- b. **Mr. Manish Jain [Reg. No. IBBI/IPA-001/IP-P00582/2017-2018/11023]**, is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.*, Business Standard (English) and EkDin (Bengali) newspapers stating that the Corporate Debtor is in liquidation.

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- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
 - f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - g. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.
 - h. In accordance with section 33(7) of the Code, 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.
 - i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal.
15. The application bearing **IA (IB) No. 619/KB/2022 and I.A. (IB) No. 622/KB/2022** shall stand disposed of in accordance with the above directions.

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16. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
17. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
18. List the main **CP (IB) No. 346/KB/2018** for reporting progress on **28.10.2022**.

[Balraj Joshi]
Member [Technical]

[Rohit Kapoor]
Member [Judicial]

Order pronounced on the 26th day of August, 2022.

GGRB[LRA]