

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

**I.A. 74 OF 2022**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

**Mr. Laxman Digambar Pawar**

...Resolution Professional  
/Applicant

In the matter of

**C.P.(IB) No. 1469/MB/2019**

**CFM Asset Reconstruction Company Pvt.  
Ltd.**

...Financial Creditor

Vs.

**Bhavya Infrastructure India Pvt. Ltd.**

...Corporate Debtor

***Order delivered on: 17/10/2023***

***Coram:***

**Mr. Prabhat Kumar**  
Hon'ble Member (Technical)

**Mr. Virendrasingh G Bisht**  
Hon'ble Member (Judicial)

For the Applicant/RP : Mr. Mohammed Varawala, Advocate

**ORDER**

***Per: Virendrasingh G Bisht, Member (Judicial)***

1. The above application I.A. No. 74/2022 is filed by Resolution Professional, Mr. Laxman Digambar Pawar (hereinafter referred to

as the “Applicant”) seeking liquidation of Bhavya Infrastructure India Pvt. Ltd. (hereinafter referred to as the “Corporate Debtor”) under Section 33 (2) 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 17.02.2020 in Company Petition No. 1469/MB/2019 admitted the petition under Section 7 of the Code, filed by CFM Asset Reconstruction Company Private Limited (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal, thereafter confirmed to act as Resolution Professional at the First Meeting of the CoC.
  - b. Ld. Counsel for the Applicant submits that pursuant to the publication of Form G inviting Expression of Interest published on 10.11.2020, the Resolution Professional received Expression of Interest from two parties, however, no response was received from the interested parties for submission of Resolution Plan till last date.
  - c. Thereafter, the Applicant received claims from other unsecured Financial Creditors of the Corporate Debtor and therefore the Applicant reconstituted the CoC and submitted

the Report of the Reconstituted Committee of Creditors to the Tribunal on 31.12.20.

- d. The Applicant submits that pursuant to the publication of the 2<sup>nd</sup> Form G inviting Expression of Interest published on 29.07.2021, the Resolution Professional received Expression of Interest from Kundan Care Products Limited, however, no response was received from them for submission of Resolution Plan till last date.
- e. The Applicant also submits that in the 4<sup>th</sup> CoC meeting, the members of CoC had proposed for extension of the Corporate Insolvency Resolution Process by 90 days beyond 180 days, however, the same was not approved by them during e-voting that concluded on 21.02.2020.
- f. Therefore, in the ninth CoC meeting held on 27.08.2021, the CoC with 100% voting passed a resolution for liquidation of the Corporate Debtor. The relevant portion of the resolution is as under: -

***“RESOLVED THAT the Committee of Creditors, at their Ninth Meeting held on 27-08-2021, approved the initiation of Liquidation of the Corporate Debtor and hence the Resolution Professional is hereby directed to file Miscellaneous Application and seek further direction and order under Section 33(1)(a) & 34(1) of the Code from the Hon’ble NCLT, Mumbai as no Resolution Plan has been received from prospective resolution applicant.*”**

***FURTHER RESOLVED THAT Resolution Professional Mr. Laxman Digambar Pawar, Reg. No. IBBI/IPA-003/IP-N00015/2017-2018/10104 be appointed as liquidator and his fees will be Rs. 50,000/- p.m. plus taxes and expenses at actual.”***

3. The Applicant has expressed his willingness to act as the Liquidator of the Corporate Debtor vide written consent to act as Liquidator in Form AA dated 27.08.2021.
4. However, during the pendency of the proceedings, the Ld. Counsel for the Applicant informed the Tribunal of the sudden demise of the erstwhile Resolution Professional Mr. Laxman Digambar Pawar vide an additional affidavit. Subsequently, CFM Asset Reconstruction Company Ltd, being a member of the CoC and having a majority voting share therein, proposed the name of Mr. Gautam Singhal as the Liquidator of the Corporate Debtor.
5. The proposed Liquidator, Mr. Gautam Singhal has expressed his willingness to act as the Liquidator of the Corporate Debtor vide Written Consent to act as Liquidator in Form AA dated 25.07.2023.
6. 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 opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

7. We have heard the counsel and perused the material available on record. We feel that no resolution seems feasible in this case, accordingly, this is fit case for Liquidation of the Corporate Debtor in terms of Section 33 of the Code.

**ORDER**

8. The I.A. No. 74/2022 is allowed and the Corporate Debtor Bhavya Infrastructure Private Limited is ordered to be liquidated as a going concern in the first attempt and if it fails, then sale by all other methods, as prescribed under the Code, shall be taken.
  - a. Mr. Gautam Singhal, having Registration No. IBBI/IPA-001/IP-P01437/2018-2019/12240, email gautam@klfindia.com, Mobile - 9811898418 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
  - 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. 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.

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT I

I.A. 74 OF 2022  
IN  
CP (IB) 1469/MB/2019

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With the above directions, the I.A. No.74/2022 filed u/s 33 (2) by the applicant is hereby **allowed** and disposed of.

Sd/-

**PRABHAT KUMAR**  
Member (Technical)

/SP/

Sd/-

**VIRENDRASINGH G BISHT**  
Member (Judicial)