

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

40. IA/471(MB) 2021
C.P.(IB)3252(MB)2019

CORAM:

SMT. ANURADHA SANJAY BHATIA,
MEMBER (T)

SMT. SUCHITRA KANUPARTHI,
MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **25.03.2022.**

NAME OF THE PARTIES: INSTRIKER ONLINE SOLUTIONS PVT LTD
V/s
AQUA INFOTECH PVT LTD

SECTION : Sec 33(1) (b) (i) to (iii) r/w Sec 33(3) of IBC 2016

ORDER

1. This is an application filed by the RP seeking the Liquidation of the Corporate Debtor Company. The admission of the CIRP was passed on 3rd January, 2020.
2. The Applicant prepared information memorandum and publish Form G inviting the Expression of Interest from PRAs. The applicant has not received any EOIs from any Prospective Resolution Applicants.
3. As no PRA filed the EOI with the Applicant, the sole Financial Creditor, being the member of CoC, on 15.02.2021 has resolved to Liquidate the Company and appoint the Mr. Bhavesh Mansukhbhai Rathod , having registration IBBI/IPA-001/IP-P01200/2018-2019/11910, RP as the Liquidator in the said matter. The Resolution of the CoC is as follows.

ITEM NO. B2: TO CONFIRM AND APPROVE THE APPOINTMENT OF MR.BHAVESH RATHOD (REGISTRATION NO. (IBBI/IPA-001/IP-P01200/2018-19/11910) AS THE RESOLUTIONPROFESSIONAL ("RP") OF THE CORPORATEDEBTOR ALONGWITH HISFEES AND EXPENSES

As per Section 22(2) of the Insolvency and Bankruptcy Code, 2016, the committee of creditors, may, in the first Meeting, by a majority vote of not less than sixty six per cent of the voting share of the creditors, either resolve to appoint the interim ResolutionProfessional as a ResolutionProfessional or to replace the interim ResolutionProfessional by another ResolutionProfessional.

Mr.BhaveshRathod, Interim ResolutionProfessional agreed to be appointed as the ResolutionProfessional (RP) if the committee approves. He had placed his written consent in Form AA before theCoC in this Meeting.

Fees of RP: INR 25,000/- (exclusive of applicable taxes and all out of pocket expenseswhich will charged as per actuals).

The payments to be credited in the account of RP.Committee is requested to vote for the appointment and fees.

4. The Applicant has provided the gist of dates and has sought a condonation of 53 days for filing of the present application. The table is as follows;

Date of order	January 3, 2020
Date of receipt of order	January 18, 2020
Date of completion of 180 days	July 16, 2020
Number of days excluded due to pandemic (July 16, 2020 to January 7, 2021) As per Hon'ble NCLAT order	175 days
IA no. 2171 of 2020 requesting for Extension of time	November 20, 2020
Revised date of completion excluding lockdown period	January 7, 2021
CoC approved liquidation	February 15, 2021
IA no. 2171 of 2020 came up for hearing on	February 25, 2021
Interlocutory Application for liquidation	March 1, 2021
Condonation of delay	53 days

5. The grounds of the delay is as follows;
 - a. Due to the pandemic there was delay in filing of the Liquidation Application by 53 days
 - b. The CoC and RP are having office at contentment zone.
 - c. The Liquidator in Form A has given his consent to take up the present assignment.
 - d. Regulation 40C of CIRP regulation allows exclusion of period of lockdown.
 - e. Regulation 47A of Liquidation regulation allows exclusion of period of lockdown.
 - f. Maharashtra Government has still not completely opened lockdown and continues partial lockdown uptill March 1, 2021.
 - g. The Hon'ble NCLAT vide its order dated November 2, 2020 in the matter of Hemant Sharma Resolution Professional of Global Softech Ltd. has allowed exclusion of 175 days for the purpose of counting the timeline of 180 days.

6. This Bench is satisfied with the reasons explained by the Applicant and hence orders Liquidation of the Corporate Debtor. The RP is appointed as the Liquidator and his fees will be paid as per the Liquidations.

7. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, for the RP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), we are of the view that this case is fit to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been submitted before the Adjudicating Authority by the Resolution Professional, and accordingly, this Bench orders;

- a. 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.
- b. that the Resolution Professional herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. 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.
- d. 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.
- e. that the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
- f. 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.
- g. This liquidation order shall be a deemed to be 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.

8. In view of the above, the IA/471(MB) 2021 is allowed and disposed off with the above terms. The delay in filing the application of 53 days is condoned.

Sd/-

ANURADHA SANJAY BHATIA
Member(Technical)

Sd/-

SUCHITRA KANUPARTHI
Member(Judicial)

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