

**THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
I.A. 2299/2020  
IN  
Company Petition No. (IB) – 208 (PB) /2019**

*Under Section 33 of the Insolvency and Bankruptcy Code, 2016 for  
liquidation of the corporate debtor*

IN THE MATTER OF:

Oriental Bank of Commerce

.... Financial Creditor

Vs.

M/s AVJ Infrastructure Pvt. Ltd.

..... Corporate Debtor

AND

Through  
Mr. Brijender Singh Deswal,

.... Applicant/ Resolution Professional

**Order Pronounced on : 06.11.2020**

**Coram:**

**SHRI. B.S.V PRAKASH KUMAR  
HON'BLE ACTG. PRESIDENT  
SHRI. HEMANT KUMAR SARANGI  
HON'BLE MEMBER (TECHNICAL)**



For the Applicant: Ms. Prachi Johri, Advocates on behalf of R.P

For the Ex Directors: Ms. Usha Singh



## **ORDER**

### **PER- B.S.V PRAKASH KUMAR ACTG. PRESIDENT**

1. This is an application filed by the Resolution Professional, under Section 33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation to Corporate Debtor, M/s. AVJ Infrastructure Private Limited.
2. The facts in brief are that one of the Corporate Debtor, namely M/s AVJ Infrastructure, had filed a Company Petition under Section 7 of the Code bearing number IB- 208 (PB)/2019 for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 30.09.2019 initiating CIRP against the Corporate Debtor and there in, appointed Mr. Brijender Singh Deswal, as the Interim Resolution Professional (IRP).



3. Thereafter the Committee of Creditors has been constituted on 23.10.2018, and the first meeting of CoC held on 30.10.2019, the applicant/RP had appointed as the Resolution Professional with the 100% voting rights, further in the 3<sup>rd</sup> CoC meeting held on 04.01.2020. The RP apprised the members of CoC that the last date of EOI which was 20.12.2019, had already passed and no EOI has been received till that time, and the RP further suggested to give another chance to the prospective resolution applicants to submit their EOI for providing the resolution plan by extending the timelines for the period of 10-15 days for the submission of EOI.
4. The CoC dissented to extend the time limits of submission of EOI and decided with the 100% of the voting rights to reject all the EOIs submitted after the last date of expression of interest,
5. Further, during the process of CIRP despite the publications to submit the Expression of Interest for



prospective resolution applicants issued in several meetings of CoC and not submitting any EOI on time. Therefore in the 4<sup>th</sup> meeting of CoC the Resolution Professional put forward an agenda to be voted upon filling an application under section 12 of the Code to extend the timeline of the ongoing CIRP by a further period of 90 days as the 180 days of the ongoing CIRP would end on 28.03.2020. However, the CoC dissented unanimously and voted against filling of such application with 100% voting rights.

6. Therefore in the 4<sup>th</sup> meeting of CoC held on 23.03.2020 after all the discussions and deliberations on the entire aspect, CoC decided to file a liquidation application before this Bench, accordingly resolutions were passed by the CoC with 100% vote share on 23.03.2020.

7. Therefore, it is further submitted by the applicant, the Corporate Debtor have no assets and no business operations have ever started. The CD has solely



engaged and incorporated to extract the sand from Yamuna, but their operations never started as initially they had to surrender the mining rights, without starting any operations. Therefore, the liquidation value and the fair value have not been calculated as there was nothing to value. However, the CoC have discussed and decided in the 1<sup>st</sup> CoC meeting that there is no requirement to appoint the registered valuers by the RP.

***REGARDING the Agenda “To approach the NCLT for Liquidation of the Corporate Debtor”, the same was unanimously assented by the COC, after Voting took place in the Ballot Paper. The Resolution so passed is mentioned below:***

***“RESOLVED THAT; “To approach the NCLT for Liquidation of the Corporate Debtor under section 33 of the Code” was unanimously approved by the COC and as the COC voted with the 100% voting rights in favor of the Agenda, thus the said Resolution was passed.***


***“RESOLVED THAT; “To approve the appointment of the RP Sh. Brijender***

***Singh Deswal as the Liquidator with fees as decided in the COC meeting” was unanimously approved by the COC and as the COC voted with 100% voting rights in favor of the Agenda, thus the said Resolution was passed.***



8. Therefore, in the factual background of the present case, the Resolution Professional suggested in the 4<sup>th</sup> CoC meeting: Further the CoC have also after all the discussions and deliberations resolved to liquidate the Corporate Debtor under Section 33 of the Code.

9. In the result the application is hereby allowed by ordering liquidation of the corporate debtor, namely M/s AVJ Infrastructure Private Limited with following directions:

- a. The Mr. Brijender Singh Deswal, holding Registration No. IBBI/IPA-003/IP-N00002/2016-2017/10021, having email- brijender@deswal.com is appointed as the Liquidator in terms of Section 32(1) of the Code;



- b. Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the




relevant rules and regulations.


- f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;



- j. IA. 2299(PB)/2020 filed in IB 208/(PB)/2019 is disposed of in terms of the aforesaid terms.

  
**(BSV PRAKASH KUMAR)**

**ACTNG PRESIDENT**

  
**(HEMANT KUMAR SARANGI)**

**MEMBER (TECHNICAL)**