

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -II)
KOLKATA**

**IA(IBC)/1519(KB)2023
in
CP(IB)/286(KB)2022**

Under section 33(2) of the Insolvency & Bankruptcy Code, 2016

In the matter of:

Tripurari Properties Private Limited (CIN: U70109WB2008PTC125328)

.... Corporate Applicant/Corporate Debtor

And

In the matter of:

Pankaj Kumar Kedia,

Resolution Professional of Tripurari Properties Private Limited

... Applicant

Order reserved on: 27/09/2023

Order pronounced on: 20/11/2023

Coram:

Smt. Bidisha Banerjee : **Member (Judicial)**

Shri Arvind Devanathan : **Member (Technical)**

Appearances (through hybrid mode):

For RP : Mr. Ritoban Sarkar, Adv.
Ms. Sutapa Mitra, Adv.

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/1519(KB)2023** is an application filed under section 33(2) of the

Insolvency and Bankruptcy Code, 2016 (in short “**IBC**”) by the Resolution Professional (“**RP**”) of **M/s. Tripurari Properties Private Limited** the Corporate Applicant (Corporate Debtor), praying for initiation of liquidation process against the Corporate Applicant (Corporate Debtor). This application is supported by an affidavit¹ duly affirmed by Mr. Pankaj Kumar Kedia, the RP.

3. This Adjudicating authority, on a petition filed u/s. 10 of the IBC read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Tripurari Properties Private Limited, Corporate Applicant, *vide* order² dated 18/04/2023 in CP(IB)/286(KB)2022, had ordered initiation of CIRP against the Corporate Applicant (Corporate Debtor). Shri Pankaj Kumar Kedia was appointed as the Interim Resolution Professional (“**IRP**”).
4. In terms of regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“**CIRP Regulations**”), Public Announcements in **Form A** was published in “*Business Standard*” (English) and “*Ekdin*” (Bengali) on 21/04/2023 inviting claims from the creditors.
5. In compliance of section 21(1) of the IBC, Committee of Creditors (in short “**CoC**”) was formed with sole member Mr. Himalaya Gupta, Prop. of Himalaya Gupta & Co. 1st meeting of the CoC was held on 18/05/2023 wherein the CoC has approved appointment of IRP as RP. At the said 1st meeting of the CoC, appointment of Valuers was also approved. Copy of minutes of 1st meeting of CoC forms **Annexure ‘B’**³.
6. In terms of regulation 36A(1) of the CIRP Regulations with the approval of the CoC at its 2nd meeting held on 14/06/2023, 1st Form G⁴ was published on 16/06/2023 in “*Business Standard*” (English) and “*Ekdin*” (Bengali) inviting Expression of Interest (“**EoI**”) from prospective resolution applicants (“**PRA**”).

¹ At pages 53 and 54 of the application

² Annexure ‘A’ at pages 12 to 17 of the application

³ At pages 18 and 25 of the application

⁴ Annexure ‘D’ at pages 33 and 34 of the application

stipulating the last date of submission of EoI as 30/06/2023. However no EoI was received from any PRA. Copy of the minutes of the 2nd CoC meeting forms **Annexure ‘C’**⁵.

7. 3rd CoC meeting was held on 05/07/2023 wherein it was recorded that Valuers have submitted their report with regard to financial and security assets of the Corporate Applicant. The CoC also resolved to re-issue Form G once again inviting EoI. Copy of the minutes of 3rd CoC meeting forms **Annexure ‘E’**⁶.
8. In compliance of the decision of the CoC at its 3rd meeting, 2nd Form G⁷ was published on 06/07/2023 in “*Business Standard*” (English) and “*Ekdin*” (Bengali) inviting EoI from PRA stipulating the last date of submission of EoI as 21/07/2023. However, in response to Form G published 2nd time, no EoI was received from any PRA.
9. The 4th meeting of the CoC was held on 03/08/2023. At the said 4th CoC meeting, the RP proposed to publish another Form G. However, the members of the CoC felt that since the operation of the Corporate Applicant was suspended for more than 3 years thus no fruitful purpose would be served in publishing another Form G. It has assets in the form of shares - quoted and unquoted, which were not traded. Further, there was no employee on roll. After due deliberations, the member of the CoC has recommend liquidation of the Corporate Applicant (Corporate Debtor) and accordingly it was resolved as follows: -

“RESOLVED THAT the approval of members of the Committee of Creditors be and is hereby given for filing the petition for liquidation with the Hon’ble National Company Law Tribunal, Kolkata Bench under regulation 33(2) of IBC, 2016 for the initiation of liquidation of the Corporate Debtor”.

⁵ At pages 26 to 32 of the application

⁶ At pages 35 to 40 of the application

⁷ Annexure ‘F’ at pages 41 and 42 of the application

A copy of the minutes of the 4th CoC meeting forms **Annexure ‘G’**⁸.

10. The CoC further resolved to continue with the RP/applicant as the Liquidator of the Corporate Debtor. The applicant has given his consent to act as the Liquidator of the Corporate Applicant u/s. 34(1) of the IBC. Written Consent along with Declaration of Eligibility forms **Annexure ‘H’**⁹.
11. It is to be noted here that the 180 days CIRP period has ended on 14/10/2023 and no application for extension of the CIRP period has been filed.
12. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
13. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.
14. This Bench, therefore, hereby orders as follows: -
 - a. IA(IBC)/1519(KB)2023 filed by Mr. Pankaj Kumar Kedia, RP of M/s. Tripurari Properties Private Limited, the Corporate Applicant (Corporate Debtor), is allowed. Consequently, the Corporate Applicant (Corporate Debtor) is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. Though the RP has given his consent to act as the Liquidator of the Corporate Debtor but in view of direction of the IBBI contained in Circular no. Liq-12011/214/2023-IBBI/840 dated 18/07/2023 for appointment of Liquidator other than IRP/RP under section 34(4)(b) of the Code we are appointing Ms.

⁸ At pages 43 to 51 of the application

⁹ At page 52 of the application

Rashmi Chhawchharia (Reg. No. IBBI/IPA-001/IP-P-02016/2020-2021/13148) having e-mail i.d. rashmi.chhawchharia@gmail.com mobile no. 9007205145 as Liquidator as provided under section 34(1) of the Code, subject, however, to her possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019. The Liquidator is directed to submit her consent to act as Liquidator within **10 days** of receipt of this order. The erstwhile RP shall handover all papers and documents in his possession concerning the Corporate Debtor to the Liquidator appointed in this matter within **10 days**.

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., in “*Business Standard*” (English) and “*Ekdin*” (Bengali) stating that the Corporate Debtor is in liquidation.

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 Debtor 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(IBC)/1519(KB)2023** shall stand disposed of in accordance with the above directions.
16. **CP(IB)/286(KB)2022** is to come up for filing of Periodical Progress Report on **18/12/2023**.
17. 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.
18. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Arvind Devanathan
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 20th day of November, 2023.

hb.