

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

**IA. (IB) No. 482/KB/2022
in
C.P. (IB) No. 1374/KB/2020**

An application under section 33 of the Insolvency and Bankruptcy Code, 2016.
In the matter of :

BIL Infratech Limited

... Corporate Applicant

-And-

In the matter of

Mr. Subodh Kumar Agarwal,

Resolution Professional of BIL Infratech Limited

...Applicant

Order Pronounced on :10 February 2023

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Counsels appeared through hybrid mode

Mr. Subodh Agarwal, PCS : Resolution Professional

ORDER

Per: Balraj Joshi, Member (Technical)

1. The Court convened through hybrid mode.
2. This is an application filed by the Resolution Professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, viz., BIL Infratech Limited [CIN: U45400WB2010PLC151807], on the ground that the no resolution plan was approved by the Committee of Creditors ('CoC'). The Applicant has sought for the following reliefs:

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- a. *Liquidation of the Corporate Debtor as per section 33 of the Insolvency and Bankruptcy Code, 2016;*
 - b. *Appointment of the Applicant Mr. Subodh Kumar Agarwal (IBBI/IPA-001/IP-P00087/2017-18/10183) as the Liquidator of the Corporate Debtor.*
3. This Adjudicating Authority *vide* its order dated 28 July 2021 on a Petition filed by the BIL Infratech Limited (*'Corporate Applicant'*) under section 10 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) directed initiation of the Corporate Insolvency Resolution Process (*'CIRP'*) against the Corporate Applicant, and appointed Mr. Subodh Kumar Agarwal as the Interim Resolution Professional (*'IRP'*). The IRP was confirmed as the Resolution Professional (*'RP'*) *vide* order dated 30 August 2021.
4. The Applicant submits that in terms of section 15 of the Code, made public announcement in "***Financial Express***" (English) and All India Edition and "***Aajkal***" (Bengali), Kolkata edition on 30 July 2021 and in "***Times of India***" (English) and "***Odisha Bhaskar***", Bhubaneswar edition. The Committee of Creditors was formed on 18 August 2021.
5. The first meeting of the CoC was held on 23 August 2021 and the 2nd CoC meeting was held on 27 August 2021, wherein the CoC resolved to appoint the IRP as the Resolution Professional. The Applicant states that the publication for invitation of Expression of Interest ("***EoI***") in Form G was done on 20 September 2021 in Business Standard (English) (All India edition) and Aajkal (Bengali) (Kolkata edition) newspapers. The last date of submission of EOI was 08 October 2021 which was extended till 29 October 2021. A revised Form 'G' was published 2021 in Business Standard (English) (All India edition) and Aajkal (Bengali) (Kolkata edition) newspapers on 09 September 2021.

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6. It is submitted that the RP received one EOI on 26 October 2021 and the Applicant received one Resolution Plan on 08 February 2022. The Resolution Plan was updated on 07 March 2022.
7. The CoC discussed the Resolution Plan in the 17th, 18th, 19th, 20th and 21st CoC meetings. In the 21st CoC meeting held on 11 April 2022, the Resolution Plan was discussed at length and the CoC raised certain issues and granted the Resolution Applicant an opportunity to revise the Resolution Plan.
8. The Resolution Applicant submitted a revised Resolution Plan dated 12 April 2022 which was discussed in the 24th CoC meeting held on 19 May 2022, where the Resolution Plan was discussed in length. The CoC rejected the Resolution Plan with 66.90% voting share.
9. The CoC resolved to liquidate the Corporate Debtor as a going concern in the 24th CoC meeting.
10. Hence, the RP has filed an application under section 33(1) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor on expiry of the CIRP period.
11. The Applicant/Resolution Professional, Mr Subodh Kumar Agarwal [Reg. No. IBBI/IPA-001/IP-P00087/2017-18/10183], has agreed to act as liquidator to carry on the process of liquidation and given his consent¹ to act as Liquidator, in terms of section 34(1) of the Code and has filed a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member.
12. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.
13. This Bench, therefore, hereby orders as follows: -

¹ Annexure E at Pp.56-58

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- a. Prayers as sought for in I.A. (IB) No. 482/KB/2022 filed by Mr. Subodh Kumar Agarwal, RP of BIL Infratech Limited, the Corporate Applicant, is allowed and the Corporate Applicant is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
- b. **Mr Subodh Kumar Agarwal [Reg. No. IBBI/IPA-001/IP-P00087/2017-18/10183]**, 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.*, “*Financial Express*” (English) and All India Edition and “*Aajkal*” (Bengali), Kolkata edition on 30 July 2021 and in “*Times of India*” (English) and “*Odisha Bhaskar*”, Bhubaneswar edition newspapers 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

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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, Kolkata, 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, Kolkata.

- 14. The application bearing **IA (IB) No. 482/KB/2022** shall stand disposed of in accordance with the above directions.
- 15. List the main **CP (IB) No. 1374/KB/2020** for reporting progress on **19.04.2023**.
- 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.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on the 10th day of February 2023.

GGRB_LRA