

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

**IA(IBC)/33(KB)2023  
in  
CP(IB)/236(KB)2021**

*Under section 33 of the Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

SREI Equipment Finance Limited

.... Financial Creditor

*Versus*

Predicate Consultants Private Limited  
(U93000WB2014PTC202244)

.... Corporate Debtor

*And*

*In the matter of:*

Mr. Ritesh Agarwal,  
Resolution Professional of Predicate Consultants Private Limited

... Applicant

**Order reserved on: 17/04/2023**

**Order pronounced on: 26/06/2023**

*Coram:*

**Smt. Bidisha Banerjee**

**: Member (Judicial)**

**Shri Balraj Joshi**

**: Member (Technical)**

*Appearances (through hybrid mode):*

For RP

:

Ms. Shreya Jain, PCS  
Ms. Priyanka Jain, Adv.

**ORDER**

***Per: Bidisha Banerjee, Member (Judicial)***

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/33(KB)2023** is an application filed under section 33 of the Insolvency and Bankruptcy Code, 2016 (in short “**IBC**”) by the Resolution Professional (“**RP**”) of **Predicate Consultants Private Limited**, the Corporate Debtor, praying for liquidation of the Corporate Debtor. This application is supported by an affidavit<sup>1</sup> duly affirmed by Mr. Ritesh Agarwal, the RP.
3. This Adjudicating authority, on a petition filed u/s. 7 of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by SREI Equipment Finance Limited, the Financial Creditor, *vide* order<sup>2</sup> dated 26/04/2022 in CP(IB)/236(KB)2021, had ordered initiation of CIRP against Predicate Consultants Private Limited, the Corporate Debtor. Mr. Arun Kumar Khandelia was appointed as the Interim Resolution Professional (“**IRP**”).
4. By an order<sup>3</sup> dated 25/05/2022, this Adjudicating Authority appointed Mr. Ritesh Agarwal as IRP, as proposed by the Financial Creditor, in replacement of Mr. Arun Kumar Khandelia for the reasons of disciplinary proceedings initiated by the IBBI against Mr. Arun Kumar Khandelia, erstwhile IRP. The said order was duly communicated to the IRP by the Registry.
5. In terms of section 15 of the IBC, Public Announcements<sup>4</sup> in **Form A** was published in “*Financial Express*” (English) and “*Aajkal*” (Bengali) on 07/06/2022 inviting claims from the creditors and duly formed Committee of

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<sup>1</sup> At pages 18 and 19 of the application

<sup>2</sup> Annexure A at pages 20 to 29 of the application

<sup>3</sup> Annexure B at pages 30 to 31 of the application

<sup>4</sup> Annexure B at pages 17 to 20 of the Supplementary Affidavit

Creditors (in short “CoC”) on 27/06/2022 and held 1<sup>st</sup> meeting of the CoC on 04/07/2022. At the 1<sup>st</sup> meeting of the CoC on 04/07/2022, IRP was appointed as RP.

6. *Vide* order<sup>5</sup> dated 15/07/2022, this Adjudicating Authority had granted 39 days exclusion from the CIRP period and also *vide* order<sup>6</sup> dated 26/12/2022 granted extension of the CIRP period by 30 days from 02/12/2022 to 31/12/2022 thereby taking into consideration of exclusion and extension the CIRP period would come to an end on 31/12/2022.
7. In terms of regulation 36A(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 Form G<sup>7</sup> was published on 18/08/2022 in “*Financial Express*” (English) in Pune, New Delhi, Mumbai, Chennai, Hyderabad, Kochi, Lucknow, Chandigarh, Ahmedabad, Bengaluru & Kolkata Editions and in “*Aajkal*” (Bengali) in Kolkata Edition inviting Expression of Interest (“**EoI**”).
8. In response, three EoIs were received from prospective resolution applicants (in short “**PRA**”) till the last date of submission of EoI on 02/09/2022. As per **Form G**, the last date of submission of Resolution Plan was 17/10/2022 and the same was extended till 01/11/2022, which was further extended till 16/11/2022.
9. Two Resolution Plans were received from the PRAs till the extended date of submission, from (1) USB Finance Corporation Limited and (2) Rishikesh Hire Purchase And Leasing Company Private Limited and the same was placed before the CoC for consideration and approval during the 6<sup>th</sup> to 10<sup>th</sup> meetings of the CoC.<sup>8</sup> The CoC at its 10<sup>th</sup> meeting held on 24/12/2022 did not approve any of the above resolution plans so far submitted by 1) USB Finance Corporation Limited and (2) Rishikesh Hire Purchase And Leasing Company Private Limited,

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<sup>5</sup> Annexure C at page 32 of the application

<sup>6</sup> Annexure D at page 33 of the application

<sup>7</sup> Annexure C at pages 21 to 33 of the Supplementary Affidavit

<sup>8</sup> Averments in paragraphs 6(ix) and 6(x) at page 15 of the application

recommending liquidation of the Corporate Debtor. Minutes of the 10<sup>th</sup> CoC meeting along with ballot papers forms Annexure “F” to the application.

10. At the 10<sup>th</sup> CoC meeting<sup>9</sup> held on 24/12/2022, the CoC with 100% voting share has decided to liquidate the Corporate Debtor under section 33(2) of the Code and passed the following Resolutions: -

*“RESOLVED THAT on account of rejection of the Resolution Plan received by the Corporate Debtor under Section 30 of the Insolvency and Bankruptcy Code, 2016, it is be and hereby resolved to liquidate the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016. Mr. Ritesh Agarwal, the Resolution Professional of the Corporate Debtor, be and hereby appointed to act as the Liquidator and authorized to do all such act and perform all such duties as is defined under the provisions of the Insolvency and Bankruptcy Code, 2016 as per the fee determined in the first COC meeting which was later confirmed in the second CoC meeting.....”*

11. The applicant has duly submitted Compliance Certificate<sup>10</sup> in Form H with respect to the CIRP of the Corporate Debtor dated 04/01/2023.
12. Mr. Ritesh Agarwal, Resolution Professional has submitted his consent<sup>11</sup> dated 28/12/2022 giving consent to act as the Liquidator of the Corporate Debtor.
13. It is to be noted here that the 180 days CIRP period has ended on 31/12/2022 and no further application for extension of the CIRP period has been filed.
14. 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

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<sup>9</sup> Annexure F at pages 35 to 37A of the application

<sup>10</sup> Annexure A at pages 5 to 16 of the Supplementary Affidavit

<sup>11</sup> Annexure G at pages 38 of the application

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.

15. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.

16. This Bench, therefore, hereby orders as follows: -

a. IA(IBC)/33(KB)2023 filed by **Mr. Ritesh Agarwal, RP of Predicate Consultants Private Limited**, the Corporate Debtor, is allowed. Consequently, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;

**b. Mr. Ritesh Agarwal [Reg. No. IBBI/IPA-001/IP-P-02296/2021-2022/13557] of Jindal Tower, Block C, Flat No.301, 1A, Kundan Bye Lane, Near Silver Jubilee Hospital, Haora, West Bengal 711204, having e-mail i.d. [ritesagarwal@gmail.com](mailto:ritesagarwal@gmail.com),** is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

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 “*Financial Express*” (English) in Pune, New Delhi, Mumbai, Chennai, Hyderabad, Kochi, Lucknow, Chandigarh, Ahmedabad, Bengaluru & Kolkata Editions and in “*Aajkal*” (Bengali) in Kolkata Edition 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**.
17. The application bearing **IA(IBC)/33(KB)2023** shall stand disposed of in accordance with the above directions.
18. **CP(IB)/236(KB)2021** is to come up for filing of Periodical Progress Report on **21/07/2023**.
19. 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.

20. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

Signed on this, the 26<sup>th</sup> day of June, 2023.

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