



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-VI, NEW DELHI BENCH**

**IA (Liq.) 34/ND/2024
IN
CP IB NO. 763/ND/2022**

*An application under Section 33(2) of the Insolvency and Bankruptcy Code,
2016*

IN THE MATTER OF:

BANYAN TREE NATURAL PRODUCTS PRIVATE LIMITED

...FINANCIAL CREDITOR

VERSUS

M/S KIXX MEDIA PRIVATE LIMITED

...CORPORATE DEBTOR

AND IN THE MATTER OF:

SUNIL KUMAR

RESOLUTION PROFESSIONAL OF KIXX MEDIA PRIVATE LIMITED

D-740, Mandir Marg, Opposite EOW Office,
New Delhi- 110001

...APPLICANT

Order Delivered on: 03.06.2026

CORAM:

**JUSTICE JYOTSNA SHARMA
HON'BLE MEMBER (JUDICIAL)**

**MS. ANU JAGMOHAN SINGH
HON'BLE MEMBER (TECHNICAL)**



APPEARANCES:

For the Applicant :
For the Respondent :
For the RP : Adv. Ghanshyam Sharma, Mr. Sunil Kumar

ORDER

1. The instant application i.e., IA (Liq.)/34/ND/2024, is filed by Mr. Sunil Kumar ('Applicant'), Resolution Professional of M/s Kixx Media Private Limited seeking liquidation of M/s Kixx Media Private Limited ('Corporate Debtor') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 ('Code'), and appointment of Mr. Sunil Kumar, Insolvency Professional (IBBI Reg. No. IBBI/IPA-002/IP-N00628/2018-19/11884), as the Liquidator of the Corporate Debtor in terms of Section 34 of the Insolvency and Bankruptcy Code, 2016.
2. The Applicant has made the following submissions:-
 - i. That the Company Petition (IB) No. 763/ND/2022 filed under Section 7 of the Code by the Financial Creditor (M/s Banyan Tree Natural Products Private Limited), was admitted under section 7 of the Insolvency & Bankruptcy Code, 2016 vide order dated 09.11.2023, Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor. Mr. Sunil Kumar (IBBI Reg. No. IBBI/IPA-002/IP-N00628/2018-19/11884) was appointed as Interim Resolution Professional (IRP).
 - ii. In compliance with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), the IRP made a public announcement in Form-A on 16.11.2023 in Financial Express (English) and Jansatta (Hindi). The last date for submission of claims was fixed as 28.11.2023.



- iii. In terms of Regulation 13, the IRP verified the claims received and prepared the list of creditors. Till the last date for submission of the claims, only one financial creditor claim was received and admitted. The Committee of Creditors (CoC) was constituted in accordance with Regulation 17. Vide order dated 20.12.2023, the CoC constitution report was taken on record.
- iv. The Committee of Creditors (“CoC”), in its 2nd Meeting held on 05.01.2024, approved the issuance of Form G for inviting Expressions of Interest (“EOI”), pursuant to which Form G was published on 08.01.2024. Although three EOIs were received, none of the Prospective Resolution Applicants (“PRAs”) submitted a Resolution Plan before the last date for submission, i.e., 22.04.2024.
- v. In compliance with Regulation 36B of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Resolution Professional issued the Request for Resolution Plan (“RFRP”). Clause 9 of the RFRP stipulated an interest-free refundable Earnest Money Deposit (“EMD”) of INR 7,50,000/- to be submitted along with the Resolution Plan by the PRAs included in the final list.
- vi. Upon detailed deliberations, and with a view to explore all possible avenues for revival of the Corporate Debtor and avoid its liquidation, the CoC, by 100% voting share, approved amendment of Clause 9 of the RFRP in terms of Regulations 36B(5), 36B(6), and 36B(7) of the CIRP Regulations, reducing the EMD amount from INR 7,50,000/- to INR 5,00,000/- and further extending the timeline for submission of Resolution Plans by 30 days from the date of re-issuance of the revised RFRP. However, despite the aforesaid relaxation and extension, no Resolution Plan was received within the extended period.
- vii. In the 8th Meeting of the Committee of Creditors (“CoC”) held on 28.07.2024, upon considering the fact that no Resolution Plan had been received despite issuance of the revised Request for Resolution Plan (“RFRP”), and further taking note that there was no operational activity being carried on by the Corporate Debtor, its asset base was minimal,



and the prospects of revival of the Corporate Debtor were extremely remote, the CoC, in its commercial wisdom, resolved with 100% voting share to liquidate the Corporate Debtor. The resolution passed by the CoC in the 8th meeting are as follows:

“RESOLVED THAT pursuant to the provision of Section 33 and Section 34 of the Insolvency and Bankruptcy Code read with applicable rules and regulations as amended as on date, the approval of the Committee of Creditors of Kixx Media Pvt. Ltd. (“Corporate Debtor”) be accorded to liquidate the Corporate Debtor if an order for liquidation is passed under section 33 of the Code.”

“RESOLVED FURTHER THAT, the written consent Form — AA to act as liquidator of the Corporate Debtor vide dated 28.07.2024 as placed by Mr. Sunil Kumar, the resolution professional be and is hereby taken on record and is hereby approved to act as liquidator of the Corporate Debtor subject to approval of the Adjudicating Authority”.

“RESOLVED FURTHER THAT, Mr. Sunil Kumar, the resolution professional is appointed as instructed to file necessary application before the Adjudicating Authority to obtain necessary approvals of the adjudicating authority as per provisions of the law as may be necessary to give effect to this resolution.”

“RESOLVED FURTHER THAT, Mr. Sunil Kumar, the resolution professional be authorized to sign, receive and issue all applications, petition, papers, documents, forms, which may be required before appropriate authorities in this matter and to appoint attorney, lawyers, consultants if required to draft the applications, papers, document, notices, and to appear and represent the Resolution Professional from time to time.”

“RESOLVED FURTHER THAT the Committee hereby authorizes Mr. Sunil Kumar, Resolution Professional to undertake debit transactions of the any of the expenses and to do all acts, deeds and matters as may be necessary during the give effect to this resolution and during the entire liquidation proceedings of the Corporate Debtor.”

- viii. That in the 13th Meeting of the Committee of Creditors (“CoC”) held on 13.08.2025, pursuant to the observations made by this Adjudicating Authority during the hearing dated 07.07.2025, and in view of the IBBI Circular dated 18.07.2023 recommending that the Liquidator should not be the same person as the Interim Resolution Professional (“IRP”) or Resolution Professional (“RP”), the CoC, in exercise of its commercial wisdom, passed the following resolution with 100% voting share:



“RESOLVED THAT pursuant to Section 34(1) of the Insolvency and Bankruptcy Code, 2016 read with applicable rules and regulations, the COC hereby confirms its approval for the appointment of Mr. Sunil Kumar, Insolvency Professional, as Liquidator of the Corporate Debtor, in line with the resolution passed under agenda item no. 5 of the 8th COC meeting held on 28.07.2024 and upon receipt of his written consent in Form-AA; and further resolves to pay a consolidated professional fee of Rs. 5,00,000/- (Rupees Five Lakh only) plus actual expenses for conducting the liquidation proceedings.”

“RESOLVED FURTHER THAT in the event the Hon’ble NCLT, Delhi Bench-VI, directs the appointment of an alternative Insolvency Professional as liquidator, the COC hereby approves the appointment of Mr. Pradeep Kumar, Registered Insolvency Professional (Reg. No. IBBI/IPA-001/IP-P-02583/2021-22/13981), whose written consent in Form-AA dated 12.08.2025 has been received, on the same consolidated professional fee of Rs. 5,00,000/- (Rupees Five Lakh only) plus actual expenses, for conducting the liquidation proceedings of the Corporate Debtor.”

“RESOLVED FURTHER THAT, Mr. Sunil Kumar, the resolution professional is hereby authorised to file necessary application/documents before the Adjudicating Authority to obtain necessary approvals of the adjudicating authority as per provisions of the law as may be necessary to give effect to this resolution.”

“RESOLVED FURTHER THAT, Mr. Sunil Kumar, the resolution professional be authorized to sign, receive and issue all applications, petition, papers, documents, forms, which may be required before appropriate authorities in this matter and to appoint attorney, lawyers, consultants if required to draft the applications, papers, document, notices, and to appear and represent the Resolution Professional from time to time.”

“RESOLVED FURTHER THAT the Committee hereby authorizes Mr. Sunil Kumar, Resolution Professional or in case of his non appointment, Mr. Pradeep Kumar, to undertake debit transactions of the any of the expenses and to do all acts, deeds and matters as may be necessary during the give effect to this resolution and during the entire liquidation proceedings of the Corporate Debtor.”

- ix. Accordingly, the RP has filed the Liquidation application before the Adjudicating Authority.
3. We have heard the Learned Counsel for the Applicant/Resolution Professional.
4. Section 33 (2) of the Code, provides as under:



“Section 33. Initiation of Liquidation

.....

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors (approved by not less than sixty-six per cent. of the voting share) to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).”

5. We observe that the CoC in exercise of its commercial wisdom under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, resolved with 100% voting share to liquidate the Corporate Debtor.
6. Regarding the appointment of Liquidator, we place reliance on the order of the Hon’ble National Company Law Appellate Tribunal in **Manish Jaju v. The Committee of Creditors of Rajesh Landmark Projects Private Limited & Anr., Company Appeal (AT) (Insolvency) No. 1165 of 2025** on 18.09.2025, wherein the Hon’ble NCLAT categorically held that the IBBI Circular dated 18.07.2023 cannot override the statutory mandate contained under Section 34 of the Insolvency and Bankruptcy Code, 2016, and that the same Resolution Professional may continue as the Liquidator unless grounds contemplated under Section 34(4) of the Code exist for his replacement.
7. As per the submissions of the RP and on the basis of the resolution passed by the COC, we hereby order liquidation of the Corporate Debtor “M/s Kixx Media Private Limited”. Further, in accordance with the resolution approved by the CoC, Mr. Sunil Kumar, bearing Registration No. IBBI/IPA-002/IP-N00628/2018-19/11884, email id: sunilcs9@gmail.com, is hereby appointed as the Liquidator of the Corporate Debtor. The written consent of the Liquidator, along with a valid Authorisation for Assignment (“AFA”) is on record.



- a. The Liquidator appointed in this case shall initiate the liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- b. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have effect, and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- c. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter shall cease to exist. All these powers henceforth, shall vest with the Liquidator appointed under Section 34(1) of the Code, 2016.
- d. 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. 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 that the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- f. On having the 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. 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 the 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 Corporate Debtor, CoC members, Liquidator, IBBI and RoC, NCT of Delhi & Haryana for taking necessary steps.

With the above directions, this application i.e., IA(Liq.)/34/ND/2024 in Company Petition No. (IB)-763/ND/2022 is hereby **allowed and disposed of**.

Sd/-
(ANU JAGMOHAN SINGH)
MEMBER (TECHNICAL)

Sd/-
(JYOTSNA SHARMA)
MEMBER (JUDICIAL)