



**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH: C-IV**

IA-83(MB)2024

Under Section 33 of Insolvency &
Bankruptcy Code, 2016.

Mr. Umesh Balaram Sonkar

...Resolution Professional/
Applicant

In the matter of

C.P.(IB)/1411(MB-IV)2019

Innovators Façade System Limited

(CIN: U45200MHPLCI20229)

...Operational Creditor

Vs.

Cloud Nine Realtors Private Limited

(CIN: U70109MH2010PTC198784)

...Corporate Debtor

Ordered pronounced on: **06.01.2025**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Shri Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP/Liquidator: Adv. Mily Ghoshal a/w Adv.
Asfar Khan

RP in Person:

Mr. Umesh Sonkar



ORDER

1. This is an application filed by **Mr. Umesh Balaram Sonkar**, Resolution Professional of the Corporate Debtor seeking liquidation of **Cloud Nine Realtors Private Limited** under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).
2. **Brief facts of the Application are as follows:**
 - a. This Tribunal vide an *order dated 22.11.2023*, in Company Petition bearing *C.P.(IB)/1411(MB)2019* filed under Section 9 of the Code, by **Innovators Façade Systems Limited** (hereinafter referred to as the “**Operational Creditor**”), admitted the Company Petition and Corporate Insolvency Resolution Process (“**CIRP**”) was initiated against **Cloud Nine Realtors Private Limited** (hereinafter called as the “**Corporate Debtor**”) and appointed **Mr. Umesh Balaram Sonkar** as Interim Resolution Professional by this Tribunal and was confirmed as Resolution Professional in the 1st CoC meeting held on 06.02.2024.
 - b. Pursuant to the above said Order, the Applicant herein issued a Public Announcement in two Newspapers i.e. Free Press Journal (English) and Navshakti (Marathi), on 29.11.2023, in FORM A, thereby calling upon the Creditors of the Corporate Debtor to file their claims. In accordance with the above Public Announcement, the Applicant received two claims from the Operational Creditors and the same was verified by the Applicant herein.
 - c. Post the receipt of the Claim, the IRP constituted the Committee of Creditors consisting of two Operational Creditors namely M/s Innovator Façade Systems Limited having voting share of 78.63%



and M/s Alpha National Fire Safety Services Pvt Ltd. having voting share of 21.37%

- d. The CoC observed that there are no tangible or intangible assets available and in view of the same the CoC recommended the Resolution Professional to file an Application seeking Liquidation of the Corporate Debtor.
- e. It is submitted that the 5th meeting of the CoC of the Corporate Debtor was held on 15.06.2024. The Applicant stated that the agenda of the Liquidation of the Corporate Debtor was put up before the CoC, the same was approved with the majority of 78.63% of the votes to proceed with the liquidation of the Corporate Debtor. The relevant extract of the Resolution is reproduced below: -

“RESOLVED THAT in pursuant to Section 33 of IBC- 2016 and the rules made thereunder, the consent of members of the COC be and is hereby accorded to approve the filing of application with Hon’ble NCLT. Mumbai Bench, regarding the initiation of liquidation of Corporate Debtor and to appoint the existing RP, who will give his consent to act as liquidator of the CD, as and when required.”

- 3. Hence, the present Interlocutory Application has been filed seeking Liquidation of the Corporate Debtor in view of the decision taken by the Committee of Creditors.
- 4. On perusal of the minutes of CoC, we note that the CoC member have agreed not to go forward with publication of Form G considering that there are no revival chances of Corporate Debtor. CoC has also resolved to liquidate the Corporate Debtor and authorized the applicant to file this application before us.



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5. This Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor; since, no Resolution Plan could be brought forth and voted for, and in the absence of any Resolution Plan on the table, the order of liquidation shall be passed by this Adjudicating Authority under Section 33 of the Code.
6. In that view of the matter, having considered the submissions and on perusal of averments made in the present Interlocutory Application; this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority has left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor. Hence ordered.

ORDER

- a) The Application be and the same is allowed. The Corporate Debtor, ***Cloud Nine Realtors Private Limited***, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) It is to be noted that, as per IBBI vide its circular no. LIQ-12011/214/2023-IBBI/840 dated 18.07.2023 in the exercise of its powers conferred u/s 34(4)(b) of the Code had recommended that an IP other than RP/ IRP may be appointed as a liquidator in all the cases where the Liquidator (read liquidation) order is passed henceforth. In view of this circular of IBBI, we hereby appoints **Mr. Rajendra Kishanrao Joshi**, having Registration No. **IBBI/IPA-002/IP-N01205/2021-2022/14020**;
- Email



rajendrajoshi_cs@yahoo.com as the Liquidator to conduct liquidation process of “*Cloud Nine Realtors Private Limited*” as provided under Section 34(4) of the Code.

- c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case, he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) **Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.**



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- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit Progress Reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.
- m) **The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.**
- n) Registry shall furnish a copy of this Order to:
- i. **Insolvency and Bankruptcy Board of India, New Delhi;**
 - ii. **Regional Director (Western Region), Ministry of Corporate Affairs;**



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- iii. **Registrar of Companies & Official Liquidator, Maharashtra;**
 - iv. **Registered Office of the Corporate Debtor; and**
 - v. **Liquidator, Mr. Rajendra Kishanrao Joshi**

7. With theaforesaid observations and directions, the Interlocutory Application bearing IA No. 83 of 2024 IN C.P.(IB)/1411(MB)2019, stands disposed of as **Allowed**. There wouldhowever be no order as to costs. Ordered Accordingly.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)