

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI
SPECIAL BENCH COURT III

14. I.A. 1564/2022
IN
C.P.(IB) -4537(MB)/2018

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SHRI PRABHAT KUMAR, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **30.01.2023**

NAME OF THE PARTIES: European Projects & Aviation Ltd.

V/s.

Infro Alliance Trading Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Avinash R. Khanolkar, counsel appearing for the Resolution Professional is present through virtual hearing.

I.A. 1564/2022

The above Interlocutory Application is filed by the Applicant/RP for liquidation of the Corporate Debtor company.

Heard the argument of counsel appearing for the Applicant/RP and the above Interlocutory Application is **allowed**. Detail order follow.

Registry shall list the above matter on receiving fresh I.As/M.As if any.

Sd/-
PRABHAT KUMAR
Member (Technical)
//SKS//

Sd/-
H. V. SUBBA RAO
Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 17/02/2023

S. S. Senanayake
Deputy Registrar 17/02/2023
National Company Law Tribunal Mumbai Bench
(D-2539) 16/02/2023

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

I.A. 1564 OF 2022

IN

CP (IB) – 4537/IBC/MB/2018

Under Section 33 (1) of the Insolvency &
Bankruptcy Code, 2016

Filed by

Manoj Kumar Jain,

Resolution Professional for:

M/s Infro Alliance Trading Private Ltd.

...Applicant

In the matter of

European Projects & Aviation Limited

...Operational Creditor

Versus

Infro Alliance Trading Private Limited

...Corporate Debtor

Order delivered on: 30.01.2023

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Mr. Prabhat Kumar, Member (Technical)

Appearance:

For the Applicant: Mr. Pranav Avhad, (Advocate)

1. The above application I.A. No. 1564/2022 is filed by Resolution Professional, Mr. Manoj Kumar Jain (hereinafter referred to as the "Applicant") seeking liquidation of Infro Alliance Trading Private Limited (hereinafter referred to as the "Corporate Debtor") under



Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. *To pass an Order under Section 33 of the Insolvency and Bankruptcy Code, 2016 to initiate the Liquidation Process against Infro Alliance Trading Private Limited (Corporate Debtor).*
- b. Pass ad-interim and interim reliefs in terms of Clause (A);
- c. Pass any such other order or order(s) which may be deemed fit, proper and just under the circumstances of the case.

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 31.08.2021 in Company Petition No. 4537/IBC/MB/2018 admitted the petition under Section 9 of the Code, filed by European Projects & Aviation Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor.
- B. On 24.12.2021 paper publication in Form A in the Free Press Journal (in English) and in Navshakti (in Marathi).
- C. On 20.01.2022, the 1st meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) took place wherein the Applicant was appointed as the RP of the Corporate Debtor by the CoC.
- D. In the 3rd CoC dated 07.06.2022 the CoC in the following two options were discussed -

OPTION – A



To publish fresh invitation (EOI) to seek fresh bids towards Expression of Interest and Resolution Plans from prospective applicants.

OR

OPTION – B

To approve liquidation proceedings against the Corporate Debtor.

The Resolution Professional submitted the current status of Corporate Debtor during the meeting.

Current Status-

- i. No business operations being carried out since FY-2011-2012 and no related revenue generation since past few years.
- ii. No fixed assets available with the Corporate Debtor.
- iii. The only available assets with the Corporate Debtor are unlisted equity shares of European Projects & Aviation Limited, listed shares in small quantity of Syndicate Bank Limited and Debtors etc.
- iv. The Resolution Professional confirmed that No Resolution Plan was received by him at all till 07.03.2022.
- v. No staff or people on payroll for the past few years i.e. since 2018.
- vi. On 20.06.2022 was the last day of the 180-day CIRP period.



E. The Applicant further states that in the 3rd CoC meeting dated 07.06.2022 the CoC with 100% voting decided to opt for Liquidation The relevant extract of the resolution is reproduced herein below for ready reference:-

In the event COC opted OPTION “B” namely to approve and initiated liquidation proceedings u/s 33 of Insolvency and Bankruptcy (Liquidation Process) Code 2016 against the Corporate Debtor, the COC need to authorize filing of the Liquidation Application by the Resolution Professional with the appropriate adjudicating authority in respect of the Corporate Debtor. Therefore, the Committee of Creditors / members took note/ reviewed given their consent on the same and the following Resolution was passed:

“RESOLVED THAT Mr. Manoj Kumar Jain, the Resolution Professional for the Corporate Debtor, be and is hereby authorized to file an application at the earlier, with the appropriate adjudicating authority, for commencement of liquidation proceedings in respect of the Corporate Debtor as per the provisions u/s 33 of the IBC, 2016.”

“RESOLVED FURTHER THAT, Mr. Manoj Kumar Jain, Resolution Professional for the Corporate Debtor be and is hereby authorized to do all acts, things, deeds, and actions that are usual, necessary, proper and relevant to give effect to the aforesaid decision of the COC.”

The above resolution was approved with 100% voting by the COC members.



ITEM NO. 14: TO TABLE THE ESTIMATED LIQUIDTION COST OF THE CORPORAET DEBTOR, IF OPTED OPTION B UNDER ITEM NO. 13.

Pursuant to COC opted OPTION “B” namely to approve and initiate liquidation proceedings u/s 33 of Insolvency and Bankruptcy (Liquidation Process) Code 2016 against the Corporate Debtor, accordingly, COC needs to approve its estimated liquidation costs.

“RESOLVED FURTHER THAT in addition to the Professional fee, other costs such as fees payable to Public Announcement, publication of sale notice, conducting e-auction process, appointment of Legal Counsel, Tax Consultant, and other liquidation related costs etc. i.e. estimated cost around Rs. 27,14,000/- (Rupees Twenty Seven Lakh Fourteen Thousand Only) were likely to be incurred during Liquidation be and is hereby approved by the COC.

The resolution was passed with a 100% voting by the COC members.

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 3rd CoC meeting that the CoC with 100% voting decided to liquidate the Corporate Debtor. The CoC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore allows the above Interlocutory Application Number 1564 of 2022 and passed the following:



ORDER

1. The above I.A. No. 1564/2022 is allowed and the Corporate Debtor Infro Alliance Trading Private Limited is ordered to be liquidated.

- a. **Mr. Manoj Kumar Jain**, having Registration No. IBBI/IPA-001/IP-P00535/2017-2018/10960, having office at: 11, Friends Union Premises Co-operative Society Limited, 2nd Floor, 227, P.D. Mello Road, Fort, Mumbai-400 005, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees of Rs. 5,00,000/- (plus taxes plus OPE if any) payable for the liquidation period.
- c. The Liquidator appointed in this case to initiate 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.
- d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- f. That 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.

- g. That on having 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.
- h. 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.

With the above directions, this application i.e. I.A. No. 1564 of 2022 is hereby allowed and disposed of.

Sd/-

Prabhat Kumar
MEMBER (TECHNICAL)



Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)

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On 17/02/2023

H.V. Subba Rao
Deputy Registrar 17/02/2023
National Company Law Tribunal Mumbai Bench
(D-2539) 16/02/2023