

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

**I. A. No. 2470 of 2020
In
C.P. No. 4442/IB/2018**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Asis Global Limited.
... Corporate Applicant

I.A. No. 2470/2020

Mr. Asish Narayan
... Applicant/
Resolution Professional

Order delivered on 18.03.2021

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Amey Hadwale, Advocates
Mr. Asish Narayan,
Applicant/ Resolution Professional- in Person

Per Shri H. V. Subba Rao, Member (Judicial)

ORDER

1. This is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (**M/s. Asis Global Limited**) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. *To allow the instant application and pass an order of Liquidation of Corporate Debtor in terms of section 33 of the Code, decided by the CoC in its 6th Meeting held on 22nd December, 2020;*
- b. *To appoint the undersigned, Resolution Professional Mr. Asish Narayan (Reg. No. IBBI/IPA-002/IP-N000444/2017-18/11274) as Liquidator of the Corporate Debtor in terms of Section 34 of the Code, as recommended by the CoC in its 6th Meeting held on 22nd December, 2020.*

- c. *To direct the CoC to pay to reimburse the amount of Rs. 12,44,225/- in lieu of CIRP cost till 22.12.2020.”*
2. The Adjudicating Authority vide its order dated 18.11.2019 on a Petition filed by the Corporate Applicant under Section 10 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Applicant namely M/s. Asis Global Limited, wherein Mr. Asish Narayan, was appointed as Interim Resolution Professional (IRP). Thereafter, in the 1st Committee of Creditors (CoC) meeting held on 11.03.2020, CoC decided to appoint Applicant Mr. Asish Narayan as Resolution Professional. IRP constituted the CoC. The state Bank of India as the sole member of the CoC having 100% voting shares.
 3. It is submitted that the public announcement of the initiation of the CIRP was issued in Form A on 17.02.2020 in “Free Press Journal” in English and “Navshakti” in Marathi. The last date for submission of claims by creditors is 28.02.2020.
 4. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 09.05.2020 in “Free Press Journal” in English and “Navshakti” in Marathi. The last date for submission of Resolution Plan by Prospective Resolution Applicants is 02.07.2020.
 5. The CoC in its 2nd meeting held on 08.05.2020 decided to appoint a Valuer. The RP accordingly appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
 6. The RP submits that the valuers submitted their valuation reports wherein they have determined the fair market value and liquidation values, which is as under:

Valuers	Fair Value	Liquidation Value
Vishal Laheri	5,72,853/-	5,72,853/-
Rajesh R. Kamath	5,72,853/-	5,62,853/-
Average	5,72,853/-	5,67,853/-

7. The RP submits that the response to the publication in Form G, Expression of Interest from three Prospective Resolutions Applicants were received namely 1. Himanshu Sharma, 2. Rupesh Gujarathi and 3. Manoj Turakhia. Thereafter, the prospective resolution applicant was provided with the information, evaluation matrix and others necessary documents and given time to submit Resolution plan. However, the above prospective applicants neither submitted the earnest money deposits (EMD) as decided by the CoC nor came up with any Resolution Plan.
8. It is further submitted that 2nd round of an advertisement, inviting Expression of Interest (EoI) in Form G was published on 18.08.2020 in “Free Press Journal” in English and “Navshakti” in Marathi. The last date for submission of Resolution Plan by Prospective Resolution Applicants is 11.10.2020.
9. The RP submits that the response to the 2nd round of publication in Form G, a Resolution Plan dated 09.10.2020 along with a cheque of Rs. 10 Lakhs towards Earnest Money Deposit was received from Resolution Applicant namely Ms. Anu Agarwal. In the 6th CoC meeting held on 22.12.2020 the CoC in its commercial wisdom unanimously disapproved the said Resolution Plan on the ground that nothing was mentioned in the plan regarding the revival of the company and the source of funding shown in the plan from the sale proceeds of the collateral security situated was not agreeable to CoC.
10. The CoC in the 6th CoC meeting held on 22.12.2020 was informed in the meeting that there are no chances of revival of the Corporate debtor Company. Therefore, the CoC in its commercial wisdom unanimously disapproved resolution plan and deemed fit to liquidate the Corporate Debtor by passing the following Resolution;

“RESOLVED THAT: the resolution plan submitted by Ms. Anu Agarwal, Resolution Applicant be dis-approved and consent be and is hereby given to file the liquidation application by the Resolution Professional with Hon’ble NCLT Mumbai Bench under Section 33(2) of the Insolvency and Bankruptcy Code, 2016”

11. Hence, the CoC in its 6th meeting held on 22.12.2020, unanimously passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
12. The Applicant/ Resolution Professional Mr. Asish Narayan ,has agreed to act as liquidator and given consent to carry on the process of liquidation.
13. Upon hearing the submissions of the Applicant and on the perusal of the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. The reasons assigned in the petition with regards to taking the decision of liquidation of Corporate Debtor by CoC appears to be genuine and convincing. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Accordingly, we pass the following:

ORDER

- a. The I. A. No. 2470 of 2020 is hereby allowed.
- b. **Mr. Asish Narayan**, Registration No. IBBI/IPA-002/IP-N0044/2017-2018/11274, herein is hereby appointed as Liquidator as provided under Section 34(1) 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 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.

- e. The Liquidator appointed under section 34(1) of the Code. Will have 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.
- f. 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.
- g. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. 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.
- i. 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.
- j. 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.
- k. The I. A. No.2470 of 2020 is hereby allowed and disposed of.

Sd/-
SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)