

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA No. 495/2021

IN

CP No. 4271 (IB)/MB/C-II/2018

Under Section 33 of the Insolvency and
Bankruptcy Code, 2016 read with Rule
11 of the National Company Law
Tribunal Rules, 2016

Jitendra Palande ...Applicant
INTERIM RESOLUTION PROFESSIONAL
Kakade Developers Private Limited
...Applicant

V/s

Punjab National Bank & Anr.
...Respondent No. 1

Essel Infraprojects Limited
...Respondent No. 2

In the matter of

Essel Infraprojects Limited

Registered office- 513/A, 5th Floor,
Kohinoor City, Kiroi Marg, Kurla
(West), Mumbai – 400070

...Financial Creditor

V/s

Kakade Developers Private Limited

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II

IA No. 495 of 2021 IN
CP No.4271 (IB)/MB/C-II/2018

Registered office- 38, 5-3/D, New Ajanta
Avenue, Paud Road, Kothrud,
Pune – 411 038

...Corporate Debtor

Order Delivered on: 07.09.2021

Coram:

Mr. Ashok Kumar Borah : Hon'ble Member Judicial
Mr. Shyam Babu Gautam : Hon'ble Member Technical

Appearance:

For the Resolution Professional : Mr. Shikhil Suri, Advocate.
For the Respondent (PNB) : Mr. Pankaj Vijayan, Advocate.

ORDER

Per: Shyam Babu Gautam, Member (Technical)

1. This is an application filed by the Interim Resolution Professional for Liquidation to the Corporate Debtor namely **Kakade Developers Private Limited**.
2. The Corporate Debtor was placed under CIRP vide order dated 19.03.2020, on an Application filed u/s- 7 of the IBC by **Essel Infraprojects Limited** by the Financial Creditor and the Applicant/RP was appointed as IRP on the same day.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA No. 495 of 2021 IN
CP No.4271 (IB)/MB/C-II/2018

3. Subsequently, the Applicant made a Public Announcement dated 15.04.2020 in Form A in terms of Section 15 of the Code, pursuant of the public announcement, only two claims were received by the IRP from the Financial Creditors, one from the “Essel Infraprojects Limited” and one from “Punjab National Bank” (PNB) against the Corporate Debtor. The following is the Composition of first CoC:-

CoC	Voting Percentange
Essel Infraprojects Limited	60.39%
Punjab National Bank	39.61%

4. At the first CoC meeting held on 10.08.2020, the IRP was appointed as the RP. The Applicant/RP thereafter, in the 2nd CoC meeting held on 03.10.2020 and publication of Form G for invitation of expression of interest (EOI) along with the eligibility criteria of Prospective Resolution Applicant (PRA) was approved.
5. The Applicant submits that in accordance with the aforesaid public announcement made on 03.10.2020 whereby last date of receipt of EOI was 18.10.2020, however no Resolution Plan is received till date.
6. The third meeting of CoC was convened on 28.12.2020, during the said meeting, one of the agendas that was discussed and put to vote

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA No. 495 of 2021 IN
CP No.4271 (IB)/MB/C-II/2018

was to extend the CIR process by a period of 90 days or Liquidation of the Corporate Debtor.

The following is the voting result on the said resolution proposed during the CoC meeting:-

Participant Name	Voting Share	Approved/Not Approved
Essel Infraprojects Limited	60.39%	Approved
Punjab National Bank	39.61%	Not Approved

It was noted in the minutes that since the resolution for CIRP extension failed to get the requisite majority as prescribed by the Code, the IRP will file an application for liquidation of the Corporate Debtor which is a natural consequence of the operation of law. Therefore, it was decided to file application under section 33 of the Code for imitation of liquidation of the Corporate Debtor.

7. Considering the same and in totality of the circumstances this Bench is of the view that there is no alternative but to order that the Corporate Debtor be liquidated. Ordered accordingly.
8. The RP has given consent to act as liquidator in Form 2 the same has been placed on record. Therefore, this Adjudicating Authority hereby appoints Mr. Jitendra Palande, IBBI Registration No. IBBI/IPA-003/IP-N00028/2017-18/10188 as the Liquidator of the Corporate Debtor, **Kakade Developers Private Limited**.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA No. 495 of 2021 IN
CP No.4271 (IB)/MB/C-II/2018

9. This order for liquidation 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.
10. The fees payable to the Liquidator shall be in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016.
11. The Liquidator shall submit progress reports as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016.
12. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
13. Ordered Accordingly. Application for U/s. 33 (1) (b) is Allowed and with the aforesaid observation the present **IA No. 495 of 2021** is stand disposed of.

Dated 7th day of September, 2021

Sd/-

SHYAM BABU GAUTAM
Member (Technical)

Sushil/SAM

Sd/-

ASHOK KUMAR BORAH
Member (Judicial)