THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

I.A. 654 OF 2023

Under Section 33 of Insolvency & Bankruptcy Code, 2016

Ms. Vineeta Maheshwari

Resolution Professional/
…Applicant

In the matter of

C.P.(IB) No. 760/MB/2021

State Bank of India

Financial Creditor

Vs.

Aaj Ka Anand Papers Limited

Corporate Debtor

Order delivered on: 12.04.2023

***Coram**:*

Mr. Prabhat Kumar Hon'ble Member (Technical)	**Mr. Kishore Vemulapalli** Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP : Mr. Abdullah Quereshi, Advocate a/w Ms. Vineeta Maheshwari, RP present in person.

ORDER

Per: Prabhat Kumar, Member (Technical)

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1. The above application I.A. No. 654/2023 is filed by Resolution Professional, Ms. Vineeta Maheshwari (hereinafter referred to as the "Applicant") seeking liquidation of Aaj Ka Anand Papers Limited (hereinafter referred to as the "Corporate Debtor") under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as "the Code").

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

   a. The Applicant mentions that this Tribunal, vide its order dated 31.03.2022 in Company Petition No. 760/IBC/MB/2021, admitted the petition under Section 7 of the Code, filed by State Bank of India (hereinafter referred to as the "Financial Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.

   b. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G, the Resolution Professional received emails from 12 parties for obtaining EOI documents. However, no party has submitted EOI till the last date i.e. 30.06.2022.

   c. In the interest of resolution of the Corporate Debtor, the Applicant requested the CoC to republish the FORM-G,

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which was duly approved by CoC. Further, pursuant to publication of second Form-G on 08.07.2022 in two daily leading newspapers, the Applicant apprised the CoC that two EoIs were received from (i) M/s Riddhisiddhi Bullions Limited and (ii) M/s Augmont Enterprises Private Limited. However, the PRAs vide email dated 19.08.2022 withdraw their EOI and requested the Applicant to refund the deposits.

d. The Applicant published third Form-G on 08.09.2022. Pursuant to third Form-G, the Applicant received three EOIs from (i) M/s Wonder Developers (ii) Mr. Krishnan Agarwal, & (iii) Nakshatra Corporate Advisors Limited. In the 9th CoC meeting on 17.11.2022, the Applicant apprised the CoC that Resolution Plan was received from M/s Wonder Developers through Mr. Manoj Agarwal **("Resolution Applicant/RA")** on 14.11.2022. The RA has also submitted Binding Submission Bond Guarantee ("**BSBG**") of Rs. 1.00 Crore, which was confirmed by IDBI Bank being the issuer of Bank Guarantee.

e. In the twelfth CoC meeting held on 02.01.2023, the CoC sought clarifications from the RA in details on issues pertaining to (1) issue of equity shares, (2) unpaid CIRP Costs, (3) source of funds, (4) claims that were not admitted by the RP, and (5) on the clauses in the Resolution Plan will not amount to extinguishment of or discharge of the obligations of guarantors or the release of any security interest vested with the creditors. The RA was insistent on the waiver of the liability the personal guarantee and mortgage of the premises owned by the guarantor. However, CoC clarified that such a waiver was not tenable and reiterated that they intend to enforce their security interest via separate legal proceedings. The RA had submitted revised resolution plan on 10.01.2021 and was again insisted release of the personal guarantee and mortgages. The e-voting was conducted from 16.01.2023 to 22.01.2023, wherein the CoC with 100% vote rejected the Resolution Plan submitted by RA.

f. Therefore, in the fourteenth CoC meeting held on 23.01.2023, the CoC with 100% vote passed a resolution for liquidation of the Corporate Debtor. The relevant portion of the resolution is as under: -

> ***"RESOLVE THAT, the members of CoC do hereby approve to initiate liquidation process against the Corporate Debtor M/s Aaj Ka Anand Papers Limited, as the Resolution Plan not approved by the members of the Committee of Creditors as per process mentioned in sub-regulation (3B) of regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016.***

3. Further, the CoC members on 23.01.2023 with 100% vote passed a resolution to appoint Mr. Jitendra Kumar Jain (IBBI/IPA-002/IP-N00033/2016-17/10070) to act as Liquidator of the Corporate Debtor.

4. We have heard the counsel and perused the material available on record. We feel that no resolution seems feasible in this case, accordingly, this is fit case for Liquidation of the Corporate Debtor in terms of Section 33 of the Code.

5. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

6. The I.A. No. 654/2023 is allowed and the Corporate Debtor Aaj Ka Anand Papers Limited is ordered to be liquidated as a going concern in the first attempt and if it fails, then sale by all other methods, as prescribed under the Code, shall be taken.
   a. Mr. Jitendra Kumar Jain, having Registration No. IBBI/IPA-002/IP-N00033/2016-17/10070, email

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jit1.jain@gmail.com, Mobile-8826223880 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 as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

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

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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 u/s 33(7) 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.

i. The liquidator shall pursue the Interlocutory Application I.A. 2079/2020 in relation to avoidance transactions pending before this Bench.

With the above directions, the I.A. No.654/2023 filed u/s 33 (1) by the applicant is hereby **allowed** and disposed of.

Sd/-
PRABHAT KUMAR
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)