

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA No. 3841/2023

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

Mr. Birendra Kumar Agrawal

Resolution Professional/
...Applicant

In the matter of

CP (IB) No.924/MB/C-IV/2020

Indusind Bank Limited

...Financial Creditor
Vs.

**Cox and Kings Global Services
Private Limited**

...Corporate Debtor

Order Pronounced on: **09.11.2023**

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP : Mr. B. Gopalkrishnan a/w Mr.
Ashish Dalal and Ms. Ishvi Jain,
Ld. Counsel for the RP.

ORDER

1. This is an Application i.e. I.A. No. 3841/2023 is filed on 30.06.2023 by Mr. Birendra Kumar Agrawal, (hereinafter referred to as the "Applicant") seeking Liquidation of Cox and Kings Global Services Private 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:

- 2.1. The Applicant mentions that this Tribunal vide its order dated 05.01.2023 in Company Petition No. 924/IBC/MB/2020 admitted the petition under Section 7 of the Code, filed by Indusind Bank Limited (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. Mr. Birendra Kumar Agrawal, was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal and was confirmed as Resolution Professional in the 1st CoC meeting on 07.02.2023.
- 2.2. Pursuant to the admission order of the Corporate Debtor, the Applicant has published Form-A in two daily newspapers for inviting claims from the creditors of the Corporate Debtor. Further, pursuant to publication of Form-A, the Applicant has received claim from One Financial Creditor viz. Indusind Bank.
- 2.3. Ld. Counsel for the Applicant submits that the Corporate Debtor is non-operative Company and hence, there was no chance of reviving the Company. There was no data available for the preparation of the Information Memorandum (IM) and hence invitation for Expression of Interest (EoI) was not possible.
- 2.4. The Applicant submits that in the 2nd CoC Meeting held on 26.04.2023, the CoC considered and possibility of filing for liquidation u/s 33(2) of the Code. The same was approved with 100% voting. Further, the Applicant submits that the

CoC has considered the facts in accordance with **Regulation 40D** of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The said Regulation is reproduced hereinbelow:

“40D. (1) The Committee while considering the liquidation of the corporate debtor may consider factors including but not limited to non-operational status for preceding three years, goods produced or service offered or technology employed being obsolete, absence of any assets, lack of any intangible assets or factors which bring value as going concern over and above the physical assets like brand value, intellectual property, accumulated losses, depreciation, investments that are yet to mature.

(2) Such consideration may be recorded and submitted in the application for liquidation submitted by the resolution professional to the Adjudicating Authority.”

- 2.5. That the present Corporate Debtor was Corporate Guarantor to the Principal Debtor who availed certain credit card facilities and failed to replay.
- 2.6. Ld. Counsel for the Applicant submits that, the committee approved the following resolution with 100% members present and voting physically. The Resolution passed by the CoC is as under:

“Resolved That Pursuant to the provisions of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and Rules made thereunder, approval

of the Committee of Creditors be and is hereby accorded for liquidation of Cox and Kings Global Services Private Limited, subject to the approval of Hon'ble National Company Law Tribunal.”

3. This Bench hereby appoints Mr. Rajkumar Feru Gupta, having Registration No. IBBI/IPA-001/IP-P-02103/2020-2021/13247, email: rf.gupta86@gmail.com as the Liquidator to conduct liquidation process of Cox and Kings Global Services Private Limited.
4. 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 considered opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

5. The above I.A. No. 3841/2023 is allowed and the Corporate Debtor i.e. Cox and Kings Global Services Private Limited is ordered to be liquidated.
 - a. **Mr. Rajkumar Feru Gupta**, having Registration No. IBBI/IPA-001/IP-P-02103/2020-2021/13247, is hereby appointed as the Liquidator to conduct liquidation process of “**Cox and Kings Global Services Private Limited**” as provided under Section 34(4) 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 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 be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any. The Liquidator shall also examine the account books of the Corporate Debtor to ascertain existence of avoidance transactions, if not done earlier.
6. With the above directions, the I.A.-3841/2023 filed u/s 33 (1) by the applicant is hereby **allowed** and **disposed of**.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)