



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

**17. Interlocutory Application (IBC)(Liq.)/67/2024
IA 2140/2024 In C.P. (IB)/549(MB)2020**

CORAM:

**SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)**

**SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)**

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 30.08.2024**

**NAME OF THE PARTIES: - IA (Liq.) 67/2024 CA Manish Sukhani
Resolution Professional for
M/S. Pik Resource India Private Limited
IA 2140/2024 CA Manish Sukhani Resolution
Professional for M/S. Pik Resource India
Private Limited
IN THE MATTER OF
Bharat Gala
V/s
PIK Resource India Pvt Ltd**

Section: - 33(1) (b) (i) to (iii) r/w Sec 33(3) Sec 60(5) U/s 9 of (IBC)

ORDER

IA.No.2140/2024

Presence

Adv. Avinash R Khanolkar a/w Adv. Khushbu Bhanushali & Adv. Surekha Yadav
..... Resolution Professional.

This IA has been filed by the Applicant / RP seeking extension of CIRP period
by 83 days from 18.02.2024 to complete the CIRP of the Corporate Debtor. It has

---2---



---2---

been pointed out by the counsel for the Applicant in this case, plan was being considered by the CoC, which was ultimately rejected on 18.05.2024 and the same day CoC approved the liquidation of the Corporate Debtor. In the given circumstances, the CIRP period is now liable to be extended from 18.02.2024 to 05.06.2024 the day the application for liquidation was filed by the RP which is pending for disposal. Keeping in view the circumstances, we deem it appropriate to grant extension of CIRP period from 18.02.2024 to 05.06.2024 to that extent the **IA.No.2140/2024 is allowed and disposed of.**

Interlocutory Application (IBC)(Liq.)/67/2024

Presence

Adv. Avinash R Khanolkar a/w Adv. Khushbu Bhanushali & Adv. Surekha Yadav
..... Resolution Professional.

Heard the submission of the counsel for the Resolution Professional. The detailed order will follow vide separate order sheet.

Sd/-

ANIL RAJ CHELLAN
Member (Technical)

JAGDISH

Sd/-

KULDIP KUMAR KAREER
Member (Judicial)



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

Interlocutory Application (IBC)(Liq.) No. 67/2024

In
CP(IB)No. 549/MB/2020

*Application filed under section 33(2) of Insolvency
and Bankruptcy Code, 2016*

CA Manish Sukhani,

(RP of M/s PIK Resource India Private
Limited)

...Applicant

In the matter of

Shri. Bharat Gala

...Financial Creditor

V/s

M/s PIK Resource India Private Limited

(Formerly known as PIK Studios Private
Limited)

...Corporate Debtor

Order delivered on: 30.08.2024

Coram:

Anil Raj Chellan

Kuldip Kumar Kareer

Member Technical

Member Judicial

Appearances:

For the Applicant

: Adv. Avinash R Khanolkar a/w Adv. Khusbhu
Bhanushali and Adv. Surekha Yadav



ORDER

Per: Coram

1. This is an application filed u/s 33(2) of the Insolvency and Bankruptcy Code, 2016 (“the Code”) by CA Manish Sukhani, Resolution Professional (RP) of M/s PIK Resource India Private Limited (“the Corporate Debtor”) seeking liquidation order based on the resolution passed by the Committee of Creditors (CoC) in its 18th meeting held on 22.02.2024.
2. On perusal of this application, it emerges that Company Petition (IB) No. 549 of 2020 u/s Section 9 of the IBC Code, 2016 was admitted by this Tribunal, and Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor on 06.02.2023 and the Applicant herein was appointed as Interim Resolution Professional (IRP). The IRP published Form A issuing public announcement inviting claims from the Creditors of the Corporate Debtor
3. The Applicant convened the 1st CoC meeting on 06.03.2023, where the Applicant was confirmed as the Resolution Professional. In the 2nd meeting, the Applicant published a public notice inviting Expressions of Interest (EOI) for the Resolution Plan of the Corporate Debtor in Form G on 05.04.2023. However, due to limited responses to the EOI, the CoC requested the Applicant to publish another EOI. Accordingly, the second notice for the EOI was published by the Applicant on 19.07.2023. Despite this, there was limited interest, so the CoC, in its 6th meeting, asked the Applicant to modify the EOI parameters and



publish them, which was done on 11.08.2023 with a submission deadline of 26.08.2023. In response, the Applicant received three EOIs. After verifying all the documents, the Applicant issued the Provisional List of Prospective Resolution Applicants, followed by the Final List on 25.11.2023. Further, the Information Memorandum and RFRP were circulated to the PRAs.

4. The Applicant states that during the interim period, one PRA, Shri Navneet Garg, via email dated 19.09.2023, requested additional time to submit the Resolution Plan, which was granted for six days. By the last date, only one Resolution Plan was submitted by Colour Pens Universal Private Limited (hereinafter referred as Colour Pens). However, two other PRAs requested an additional ten days, but considering the scheduled timelines of the CIRP, no extension was granted to the other PRAs.
5. Accordingly, only one Resolution Plan was received which was placed before the CoC. However, the CoC expressed dissatisfaction with the plan and asked the PRA to modify the plan. The PRA was granted four days for the modification. Thereafter, Colour Pens Universal Private Limited was unable to submit the plan on time but requested additional time for submission, which was granted.
6. The members of the CoC raised concerns about the submission date being too close to the CIRP deadline of 03.11.2023, noting that they needed time to evaluate and vote on the Resolution Plan. During the interim period, Colour Pens submitted its modified Resolution Plan on



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

IA. No. 67/2024
In
CP(IB)No. 549/MB/2020

04.11.2023, which was discussed in the 10th CoC meeting on 07.11.2023. However, the CoC expressed dissatisfaction with the modified plan and resolved to publish a fresh EOI, which was issued on 08.11.2023 with a submission deadline of 18.11.2023.

7. On 16.11.2023, Shri Ajoy Mehta, representing a consortium led by M/s. Anchor Pens and Stationery Private Limited, (hereinafter referred as Anchor) requested additional time and submitted an EOI on 24.11.2023. The CoC, after deliberation, allowed Anchor Pens and Stationery Private Limited to submit its Resolution Plan by 29.11.2023.
8. Accordingly, after the third round of EOI, there were only two PRAs in the race to submit the Resolution Plan, viz. Colour Pens and Anchor. Both PRAs were asked to submit their respective Resolution Plans on or before 15.12.2023.
9. In accordance with this, in the 12th meeting of the CoC, the Applicant apprised that M/s. Anchor Pens and Stationery Private Limited had withdrawn itself from the process of submitting the Resolution Plan and that Colour Pens had submitted a fresh Resolution Plan to the Applicant.
10. In the 13th CoC meeting held on 18.12.2023, Colour Pens later clarified that they would proceed with the second Resolution Plan, which superseded the earlier one. The CIRP was initially scheduled to end on 03.01.2024. Consequently, the Applicant sought and obtained a 45-day extension of the CIRP period, starting from 09.01.2024.



11. Following this, in the 17th meeting on 31.01.2024, Bank of Baroda requested additional time to complete the voting process. The CoC then resolved to seek another extension beyond 17.02.2024, and the Applicant filed the 4th CIRP Extension Application. However, due to procedural issues, the application couldn't be registered or listed for hearing.
12. The Applicant submits that the proposed Resolution Plan by Colour Pens, submitted on 15.12.2023 and corrected on 20.12.2023, along with an Addendum and a Clarificatory Letter and a Binding Side Letter, was put to a vote by the CoC on 20.02.2024, with voting concluding on 24.02.2024. Despite an extension request in the 4th CIRP Extension Application until 15.03.2024, the CoC could not complete the voting process as Bank of Baroda required more time for evaluation.
13. As the CIRP extension was set to expire on 15.04.2024, the Applicant called for the 20th CoC meeting on 10.04.2024, in which Bank of Baroda's representative noted that their higher authorities were still considering the plan and proposed extending the CIRP period until 10.05.2024, which was approved.
14. The application was initially heard on 07.05.2024 and adjourned to 08.05.2024. During the hearing, the Bench expressed displeasure with the CoC's delays and directed the Applicant to have the CoC finalize its decision on the Resolution Plan. Following this, the CoC completed the voting and rejected the Resolution Plan submitted by Colour Pens Universal Private Limited. Consequently, the CoC also approved the



commencement of liquidation proceedings against the Corporate Debtor.

15. It is noted that throughout the CIRP process, both the Applicant and the CoC made extensive efforts to revive the Corporate Debtor, including holding 22 CoC meetings. Despite these efforts, the CoC has decided, based on its commercial wisdom, to seek the liquidation of the Corporate Debtor. The Applicant requests that the Bench, while passing the order on this application, also grant an extension to the CIRP period.
16. As per the Additional Affidavit dated 30.08.2024, the Applicant has submitted that in the 27th CoC meeting, one CoC member, namely Bank of Baroda, proposed CA Krishna Chamadia to act as the liquidator of this Corporate Debtor, and this resolution was approved by the CoC with 93.76% of the voting.
17. We have considered the arguments presented by the learned Counsel for the Applicant and perused the material available on record. It was observed that the Applicant was unable to complete the CIRP process despite receiving four extensions from this Tribunal. Even after issuing the EOI twice, and after receiving, reviewing, and modifying the resolution plan as per the CoC's suggestions, the CoC ultimately rejected the modified resolution plan in its 18th CoC meeting. Given that the Corporate Debtor has exceeded the 330-day statutory timeline, the CoC determined that approving a resolution plan was no longer feasible, leading to the decision to liquidate the company. In light of



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

IA. No. 67/2024
In
CP(IB)No. 549/MB/2020

these circumstances, and in accordance with the decision of the Committee of Creditors (CoC), the CoC opted for the liquidation of the Corporate Debtor.

18. The extract of the relevant resolution by the CoC in its 18th Meeting held on 22.02.2024. is reproduced herein below:

“RESOLVED THAT the liquidation of M/s PIK Resource India Private Limited, be and is hereby approved.”

“RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorised to do all such acts, things and deeds as may be deemed necessary to give effect to the above resolution.”

“RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorised to file the necessary Application with the Adjudicating Authority for the liquidation of the Company by the Adjudicating Authority”

19. In view of the above discussions and findings, this Bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down under the Insolvency & Bankruptcy Code, 2016. Hence, we pass the following orders:



ORDER

- a. The Mr. Krishna Chamadia, holding Registration No. IBBI/IPA-001/IP-P00694/2017-18/11220 is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai, and to the Insolvency and Bankruptcy Board of India; The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- c. This order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- d. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016, and in accordance with the relevant rules and regulations.
- e. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- f. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor, if any, as per law.
- g. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the



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

IA. No. 67/2024
In
CP(IB)No. 549/MB/2020

liquidation commencement date as per Regulation 13 of the
Insolvency and Bankruptcy (Liquidation Process) Regulations,
2016;

h. Copy of this order be sent to the financial creditors, corporate
debtor, and the Liquidator for taking necessary steps.

20. The IA-67/2024 filed by the RP for Liquidation of the Corporate
Debtor stands allowed accordingly in aforesaid terms.

Sd/-

ANIL RAJ CHELLAN
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)