

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

I.A. 2154 OF 2023

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Mr. Vinod Radhakrishnan Nair

Resolution Professional/

...Applicant

In the matter of

C.P.(IB) No. 3853/MB/2019

VS&B Domestic Container Solutions Private
Limited

Operational Creditor

Vs.

Opal Asia (India) Private Limited

Corporate Debtor

Order delivered on: 16.06.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP

: Mr. Akshay Ajit Zantya,
Advocate

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

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1. The above application I.A. No. 2154/2023 is filed on 19.05.2023 by Mr. Vinod Radhakrishnan Nair, (hereinafter referred to as the “Applicant”) seeking liquidation of Opal Asia (India) 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:
 - a. The Applicant mentions that this Tribunal vide its order dated 24.08.2022 in Company Petition No. 3853/IBC/MB/2019 admitted the petition under Section 7 of the Code, filed by VS&B Domestic Container Solutions Private 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. Vinod Radhakrishnan Nair, was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal and was appointed as Resolution Professional.
 - b. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G dated 26.10.2022, no expression of interest from any prospective Resolution Applicant was received against the Invitation for Expression of Interest. As the no Prospective Resolution Plans and No Expression of

Interest was received, the RP again publish Form G on 14.01.2023.

- c. The Applicant submits even with regards to the invitation for Expression of Interest published on 14.01.2023, no expression of interest from any prospective resolution applicant was received.
- d. The Applicant further states that the Corporate Debtor has been out of operations for the past 4 years with no business and is not a going concern. The Corporate Debtor has no enterprise value at the present moment and the same is evident from the fact despite issuance of Invitation for Expression of Interest on two separate occasions, the RP/RP has not received any enquiry, interest or any response from any interested parties.
- e. In view of the above facts, the Applicant submits that in the Fifth CoC Meeting held on 11.05.2023, the CoC with 97.07% voting passed a resolution to liquidate the company and authorized the RP to file liquidation application under Section 33 of the Code. The Resolution passed in the meeting is reproduced hereinunder: -

“RESOLVE THAT, the Corporate Debtor be liquidated in accordance with Section 33 of Insolvency and Bankruptcy Code, 2016.

Further Resolved that, the Committee of Creditors hereby authorizes and instructs Mr. Vinod Nair, the Resolution

Professional to file an application for liquidation of Corporate Debtor under Section 33(2) of Insolvency and Bankruptcy, Code 2016 and other relevant rules and regulations and take such appropriate steps such as appointment of Advocate and otherwise as shall be required for filing and adjudication of the said application before the Adjudicating Authority.”

3. 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

4. The above I.A. No. 2154/2023 is allowed and the Corporate Debtor Opal Asia (India) Private Limited is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
 - a. **Mr. Vinod Radhakrishnan Nair**, having Registration No. IBBI/IPA-001/IP-P01352/2018-19/12083, having office at: a-108, om Rachana CHS, Sector 17, Vashi, Navi Mumbai-400703 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

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- 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.
- j. With the above directions, the I.A. No.2154/2023 filed u/s33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)