

**THE NATIONAL COMPANY LAW TRIBUNAL**

**COURT VI, NEW DELHI**

**IA 1960/2024**

**IN**

**Company Petition No. (IB) – 429/(ND)/2022**

*Under Regulation 45 (3)(a) r/w Regulation 32(e) of  
IBBI (Liquidation Process) Regulations, 2016.*

**IN THE MATTER OF:**

ACHIEVER INFRATECH LIMITED

.... Financial Creditor

**Versus**

M/S. BANYANTREE INFRADEVELOPERS PVT. LTD

.... Corporate Debtor

**AND IN THE MATTER OF-**

MR. DEVENDRA UMRAO

LIQUIDATOR

M/S BANYANTREE INFRADEVELOPERS PVT. LTD

.... Applicant

**CORAM:**

**SHRI. MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

**Appearance –**

**PRESENT:**

For the Petitioner/Financial Creditor :

For the Liquidator : Adv. Abhishek Parmar.

For the Respondent/Corporate Debtor :

**ORDER**

**PER- MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)**

**Order Pronounced on: 10.09.2024**

1. The present I.A. No. 1960/2024 has been preferred by the Liquidator qua the Corporate Debtor, (hereinafter referred to as, the ‘Applicant’) under Regulation 45(3)(a) r/w Regulation 32(e) of IBBI (Liquidation Process) Regulations, 2016. The reliefs sought by the Applicant reads thus:

- a) *Allow the present application in the interest of stakeholders by taking on the present Final Report submitted by the Liquidator and accordingly liquidation proceedings against the corporate debtor namely Banyantree Infradevelopers Private Limited may be closed under Regulation 45(3)(a) read with Regulation 32(e) of IBBI (Liquidation Process) Regulations, 2016 by including the name of Acquirer/ Successful Bidder;*
- b) *Declare all outstanding liabilities, dues payable, action against the corporate debtor prior to the date of acquisition shall be extinguished in term Section - 32A of the Code and the new management to start the operations from clean slate;*
- c) *Pass such other or further Order/ Order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.”*

2. Stating succinctly, the underlying main Petition CP (IB)-429/ND/2022 was filed by ACHIEVER INFRATECH LIMITED against the Corporate Debtor namely, M/s BANYANTREE INFRADEVELOPERS PVT. LTD under Section 7 of IBC, 2016, which was admitted in terms of the Order dated 21.10.2022 passed by this Adjudicating Authority. The order dated 21.10.2022 directed initiation of the corporate insolvency resolution process (“CIRP”) in respect of Banyantree Infradevelopers Private Limited (“CD”) and appointed Mr. Devendra Umrao as the interim resolution professional (“IRP”) under the provisions of the Insolvency and Bankruptcy Code, 2016 (“IBC”).

3. The IRP made public announcement in Form A dated 02.11.2022 inviting claims from the creditors of the CD, after verifying and collating the claims received from the creditors, constituted the committee of creditors (“CoC”) of the CD in accordance with the provisions of the IBC. The IRP convened the first meeting of CoC on 22.11.2022 and therein, IRP was confirmed to act as Resolution Professional.

4. In the 2nd meeting of creditors held on 19.12.2022, CoC members approved publication of Form G. The RP issued invitation for expression of interest (“EOI”) for submission of the Resolution Plan for the CD from interested and eligible prospective resolution applicants (“PRAs”) in Form-G on 20.12.2022. The last date for submission of EOI was 04.01.2023. In response to such Form- G, 3 EOIs were received before last date of EOI. However, none of the PRAs submitted any resolution plans.

5. In the 4<sup>th</sup> meeting of creditors, when no Resolution Plan were received from any of the PRAs, members of CoC decided not to re-publish Form-G again, rather approved the agenda for initiation of Liquidation Process. Accordingly, application for initiation of liquidation process having IA No.2348 of 2023 was filed by the applicant. After being duly heard, this Hon'ble Tribunal passed an order dated 13.07.2023 initiating liquidation process of the CD and appointed applicant to act as liquidator.

6. The applicant, after constituting the Stakeholder Consultation Committee, conducted 1st meeting of stakeholders on 20.07.2023, wherein SCC approved the recommendations made under Regulation 39 (C) (1) of CIRP Regulations, 2016 for sale of corporate debtor as going concern.

7. The details of the Liquidation Process in FORM H COMPLIANCE CERTIFICATE [Under Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016] are as under:-

| <b>FORM H</b><br><b>COMPLIANCE CERTIFICATE</b><br><i>[Under Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016]</i>                                                                                                                                                             |                                                       |                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------------------------|
| <p>I, Devendra Umrao, an insolvency professional enrolled with Insolvency Professional Agency of Institute of Cost Accountants of India and registered with the Board with registration number IBBI/IPA-003/IP-N00223/2019-20/12640, am the Liquidator for the Liquidation Process of Banyantree Infradevelopers Private Limited.</p> |                                                       |                                                                     |
| <p>2. The details of the Liquidation Process are as under:</p>                                                                                                                                                                                                                                                                        |                                                       |                                                                     |
| Sl. No.<br>(1)                                                                                                                                                                                                                                                                                                                        | Particulars<br>(2)                                    | Description<br>(3)                                                  |
| 1                                                                                                                                                                                                                                                                                                                                     | Name of the corporate debtor                          | Byantree Infradevelopers Private Limited                            |
| 2                                                                                                                                                                                                                                                                                                                                     | Case No. & NCLT Bench                                 | CP (IB) No. 429 of 2022, New Delhi Bench VI                         |
| 3                                                                                                                                                                                                                                                                                                                                     | Date of initiation of liquidation                     | 13.07.2023                                                          |
| 4                                                                                                                                                                                                                                                                                                                                     | Date of appointment of liquidator                     | 13.07.2023                                                          |
| 5                                                                                                                                                                                                                                                                                                                                     | Date of commencement of CIRP                          | 21.10.2022                                                          |
| 6                                                                                                                                                                                                                                                                                                                                     | Name of RP during CIRP and his registration No. as IP | Devendra Umrao<br>Reg. No.:<br>IBBI/IPA-003/IP-N00223/2019-20/12640 |

|    |                                                                                                               |                                                                             |
|----|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 7  | Name of Liquidator and his registration No. as IP                                                             | Devendra Umrao<br>Reg. No.:<br>IBBI/TPA-003/IP-<br>N00223/2019-<br>20/12640 |
| 8  | Date of Publication of Public Announcement under Form B                                                       | 15.07.2023                                                                  |
| 9  | Date of Intimation to Registry and Information Utility, if any, about commencement of Liquidation             | NA                                                                          |
| 10 | Date of handover of charge by RP                                                                              | 13.07.2023                                                                  |
| 11 | Date of submission of compliance, if any, directed by AA in the liquidation order and its particulars         | NA                                                                          |
| 12 | Date of appointment of registered valuers, if any                                                             | NA                                                                          |
| 13 | Date of notice for uncalled capital/unpaid capital contribution                                               | NA                                                                          |
| 14 | Date of realisation of uncalled capital/unpaid capital contribution                                           | NA                                                                          |
| 15 | Date of opening of liquidation account with Bank A/c details                                                  | 13.07.2023                                                                  |
| 16 | Date of constitution of Consultation Committee                                                                | 11.09.2023                                                                  |
| 17 | No. of meetings of consultation committee held                                                                | 5 (Five)                                                                    |
| 18 | Date of submission of list of stakeholders to AA                                                              | 26.09.2023                                                                  |
| 19 | Date of filing of preliminary report & assets memorandum to AA                                                | 15.10.2023                                                                  |
| 20 | Fair value                                                                                                    | 1,49,41,761.5                                                               |
| 21 | Liquidation value                                                                                             | 89,44,962                                                                   |
| 22 | Date of public notice for auction (please add additional rows, if required)                                   | 10.10.2023                                                                  |
| 23 | Date of order of AA to dispense with the public notice for Auction                                            | NA                                                                          |
| 24 | Date of permission of AA for physical Auction                                                                 | NA                                                                          |
| 25 | Date of permission of AA for private sale                                                                     | NA                                                                          |
| 26 | Date of permission of AA for distribution of unsold assets to stakeholders                                    | NA                                                                          |
| 27 | Date of permission of the liquidator to realise the un-relinquished security interest by the secured creditor | NA                                                                          |

Devendra Umrao  
IBBI/TPA-003/IP-  
N00223/2019-  
20/12640

|    |                                                                                                                                                                                                                                                                                               |                                                                                                                                                         |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| 28 | Modified list of stakeholders and date of submission to AA                                                                                                                                                                                                                                    | NA                                                                                                                                                      |
| 29 | Date of first realization                                                                                                                                                                                                                                                                     | 16.11.2023                                                                                                                                              |
| 30 | Date of second realization                                                                                                                                                                                                                                                                    | NA                                                                                                                                                      |
| 31 | Date of first distribution                                                                                                                                                                                                                                                                    | 19.01.2024                                                                                                                                              |
| 32 | Date of second distribution                                                                                                                                                                                                                                                                   | NA                                                                                                                                                      |
| 33 | Date of submission of Quarterly Progress Report-I (FY-1)                                                                                                                                                                                                                                      | 15.10.2023                                                                                                                                              |
| 34 | Date of submission of Asset Sales Report to AA                                                                                                                                                                                                                                                | NA                                                                                                                                                      |
| 35 | Date of submission of Quarterly Progress Report-II                                                                                                                                                                                                                                            | 16.01.2024                                                                                                                                              |
| 36 | Date of submission of Quarterly Progress Report-III                                                                                                                                                                                                                                           | NA                                                                                                                                                      |
| 37 | Date of submission of Quarterly Progress Report-IV & Audit Report                                                                                                                                                                                                                             | NA                                                                                                                                                      |
| 38 | Date of submission of Quarterly Progress Report-I (FY-2)                                                                                                                                                                                                                                      | NA                                                                                                                                                      |
| 39 | Date of submission of Quarterly Progress Report-II                                                                                                                                                                                                                                            | NA                                                                                                                                                      |
| 40 | Date of submission of Quarterly Progress Report-III                                                                                                                                                                                                                                           | NA                                                                                                                                                      |
| 41 | Date of submission of Quarterly Progress Report-IV & Audit Report                                                                                                                                                                                                                             | NA                                                                                                                                                      |
| 42 | Date of intimation to statutory authority as applicable.<br>a) Mining Department, Jhansi<br>b) Directorate of Geology & Mining<br>c) Income Tax Department<br>d) GST<br>e) Registrar of Companies                                                                                             | 19 <sup>th</sup> July, 2023<br>19 <sup>th</sup> July, 2023<br>18 <sup>th</sup> July, 2023<br>19 <sup>th</sup> July, 2023<br>19 <sup>th</sup> July, 2023 |
| 43 | Date of deposit of unclaimed dividends or undistributed proceeds and income and interest thereon, if any, under sub-regulations (2), (3) or (4) of regulation 46                                                                                                                              | NA                                                                                                                                                      |
| 44 | Amount deposited into Corporate Liquidation Account:<br>(a) Amount of unclaimed dividends<br>(b) Amount of undistributed proceeds<br>(c) Income referred to in sub-regulation (2) and (3) of regulation 46<br>(d) Interest referred to in sub-regulation (4) of regulation 46<br><b>Total</b> | Nil                                                                                                                                                     |
| 45 | Date of submission to the Board and the Authority under sub-regulation (5) of regulation 46                                                                                                                                                                                                   |                                                                                                                                                         |
| 46 | Date of Final Report to AA (prior to dissolution application)                                                                                                                                                                                                                                 | 12.04.2024                                                                                                                                              |

3. The details of the assets as per Asset Memorandum and Final Sale Report are as under: The Corporate Debtor was sold as going concern.

| Sl. No. | Assets                            | Mode of Sale | Estimated Liquidation Value | Realisation Amount (Rs.) | Date of Transfer to Liquidation Account |
|---------|-----------------------------------|--------------|-----------------------------|--------------------------|-----------------------------------------|
| (1)     | (2)                               | (3)          | (4)                         | (5)                      | (6)                                     |
| 1.      | Corporate Debtor as going concern | E-auction    | 89,44,962                   | 90,44,962                | 01.12.2023                              |
|         |                                   |              |                             |                          |                                         |
|         |                                   |              |                             |                          |                                         |

4. (a) Liquidation value of the liquidation estate:

(b) Amount realized during the liquidation process:

| Sl. No.                 | Realisations                                            | Amount (Rs.) |
|-------------------------|---------------------------------------------------------|--------------|
| 1.                      | Opening balance as on liquidation commencement date (A) | 2073555.52   |
| <b>Realisations (B)</b> |                                                         |              |
| 2.                      | Auctions of assets                                      | 90,44,962    |
| 3.                      | Private sales of assets                                 | NA           |



|                    |                                             |                       |
|--------------------|---------------------------------------------|-----------------------|
| 4.                 | Assignment of not readily realizable assets | NA                    |
| 5.                 | Distribution of unsold asset                | NA                    |
| 6.                 | Others (specify)                            | NA                    |
| <b>Total (A+B)</b> |                                             | <b>1,11,18,517.52</b> |

(c) The amounts distributed to stakeholders as per section 52 or 53 of Code are as under:

(Amount in Rs. lakh)

| Sl. No.      | Stakeholders* under section 53 (1)                                                               | Amount Claimed        | Amount Admitted       | Amount Distributed    | Amount Distributed to the Amount Claimed (%) | Remarks |
|--------------|--------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|----------------------------------------------|---------|
| (1)          | (2)                                                                                              | (3)                   | (4)                   | (5)                   | (6)                                          | (7)     |
| 1            | (a): CIRP Costs                                                                                  | Nil                   | Nil                   | Nil                   | Nil                                          | Nil     |
| 2            | (a): Liquidation Costs                                                                           |                       |                       |                       |                                              |         |
| 3            | (i) Liquidator Fee                                                                               | 11,36,688             | 11,36,688             | 11,36,688             | 100%                                         | NA      |
| 4            | (ii) Miscellaneous expenses (Publication expenses, Professionals engaged by the Liquidator etc.) | 7,83,877.28           | 7,83,877.28           | 7,83,877.28           | 100%                                         | NA      |
| 5            | (iii) Distribution to stakeholders                                                               | 1,21,68,208           | 1,21,68,208           | 90,44,962             | 74.33                                        | NA      |
| 6            |                                                                                                  |                       |                       |                       |                                              |         |
| 7            |                                                                                                  |                       |                       |                       |                                              |         |
| 8            |                                                                                                  |                       |                       |                       |                                              |         |
| 9            |                                                                                                  |                       |                       |                       |                                              |         |
| 10           |                                                                                                  |                       |                       |                       |                                              |         |
| 11           |                                                                                                  |                       |                       |                       |                                              |         |
| <b>Total</b> |                                                                                                  | <b>1,40,88,773.28</b> | <b>1,40,88,773.28</b> | <b>1,09,65,527.28</b> |                                              |         |

\*If there are sub-categories in a category, please add rows for each sub-category.

**4A. Details of realisation of security interest by secured creditor under section 52: NA**

| Sl. No. | Particulars                                                                              | Details |
|---------|------------------------------------------------------------------------------------------|---------|
| 1.      | Number of secured creditors who did not relinquish security interest                     |         |
| 2.      | Liquidation value of such security interest (Rs.)                                        |         |
| 3.      | Amount of admitted claim of secured creditors (Rs.)                                      |         |
| 4.      | Total realisation from such security interest (Rs.)                                      |         |
| 5.      | Total Contribution made as per regulation 21A(2) (Rs.) (i+ii+iii)                        |         |
|         | i. Contribution made by secured creditors toward workmen's dues (Rs.)                    |         |
|         | ii. Contribution made by secured creditors toward unpaid CIRP and Liquidation Cost (Rs.) |         |
|         | iii. the excess of the realised value of the asset (Rs.)                                 |         |
| 6.      | Realised value received by secured creditor (Rs.)                                        |         |
| 7.      | Date of realisation by secured creditor                                                  |         |

**4B. Details of assignment of not readily realisable assets: NA**

| Sl. No. | Particulars                                                                | Details |
|---------|----------------------------------------------------------------------------|---------|
| 1.      | Details of the assets                                                      |         |
| 2.      | Liquidation value of the assets (Rs.)                                      |         |
| 3.      | Amount realised (Rs.)                                                      |         |
| 4.      | Name of the bidder                                                         |         |
| 5.      | Sharing of proceeds between bidder and creditors/ corporate debtor, if any |         |
|         | Schedule of realisation by bidder                                          |         |



5. The Liquidation Process has been conducted as per the timeline indicated in regulation 47 as under:

| Section of the Code / Regulation No.        | Description of Task                                                                                                  | Timeline as per regulation 47                                          | Actual Timeline                           |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-------------------------------------------|
| (1)                                         | (2)                                                                                                                  | (3)                                                                    | (4)                                       |
| Section 33 & 34                             | Commencement of LCD and Appointment of Liquidator                                                                    | T                                                                      | 13.07.2023                                |
| Section 33 (1) (b) (ii) / Reg. 12 (1, 2, 3) | Public announcement in Form B                                                                                        | T+5                                                                    | 15.07.2023                                |
| Reg. 31A (6)                                | First meeting of SCC                                                                                                 | T+7                                                                    | 20.07.2023                                |
| Section 38 (1), Reg. 17, 18, 19, 20 and 21A | Submission of claims;                                                                                                | T+30                                                                   | The Liquidator did not receive any claim. |
| Reg. 30                                     | Verification of claims received under regulation 12(2)(b)                                                            | T+60                                                                   | 11.09.2023                                |
| Reg. 31A                                    | Constitution of SCC                                                                                                  | T+60                                                                   | 11.09.2023                                |
| Section 40 (2)                              | Intimation about decision of acceptance/ rejection of claim                                                          | T+67                                                                   | 14.09.2023                                |
| Reg. 31 (2)                                 | Filing the list of stakeholders                                                                                      | T+75                                                                   | 26.09.2023                                |
| Reg. 13                                     | Preliminary report to the AA                                                                                         | T+75                                                                   | 26.09.2023                                |
| Reg. 34                                     | Asset memorandum                                                                                                     | T+75                                                                   | 26.09.2023                                |
| Reg. 15 (1), (2), (3), (4) and (5), and 36  | Submission of progress reports to AA; Asset Sale report to be enclosed with every Progress Report, if sales are made | Q1+15<br>Q2+15                                                         | 15.10.2023<br>16.01.2024                  |
| Reg. 42 (2)                                 | Distribution of the proceeds to the stakeholders                                                                     | Distribution of realization + 90                                       | 19.01.2024                                |
| Reg. 44                                     | Liquidation of corporate debtor                                                                                      | T+365                                                                  |                                           |
| Sch-1 Sl. No 12                             | Time period to H1 bidder to provide balance sale consideration                                                       | Within 90 days of the date of invitation to provide the balance amount | 08.02.2024                                |

6. The following are deviations /non-compliances with the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made, or circulars issued there under (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

| Sl. No. | Deviation/Non-compliance observed | Section of the Code / Regulation No. / Circular No. | Reasons | Whether rectified or not |
|---------|-----------------------------------|-----------------------------------------------------|---------|--------------------------|
| (1)     | (2)                               | (3)                                                 | (4)     | (5)                      |
| NA      |                                   |                                                     |         |                          |

7. The dissolution application has been filed before expiry of the period of one year.

8. The details of application(s) filed / pending in respect of avoidance of transactions.

| Sl. No. | Type of Transaction                               | Date of Filing with Adjudicating Authority | Date of Order of the Adjudicating Authority | Brief of the Order |
|---------|---------------------------------------------------|--------------------------------------------|---------------------------------------------|--------------------|
| (1)     | (2)                                               | (3)                                        | (4)                                         | (5)                |
| 1       | Preferential transactions under section 43        | 01.01.2024                                 | Pending Adjudication                        |                    |
| 2       | Undervalued transactions under section 45         | NA                                         | NA                                          |                    |
| 3       | Extortionate credit transactions under section 50 | NA                                         | NA                                          |                    |
| 4       | Fraudulent transactions under section 66          | 01.01.2024                                 | Pending Adjudication                        |                    |

8. The applicant, in order to discharge his duties mentioned under Section 35 of the Code and in accordance with Regulation 32A of the Liquidation Regulations, issued sale notice dated 10.10.2023 for e-auction for sale of corporate debtor as going concern to be conducted on 07.11.2023, at a reserve price of Rs. 89,44,962/-. The E-auction was successfully conducted on 07.11.2023, and Mr. Yash Sharma was the highest bidder at a bid price of Rs. 90,44,962/ (Rounded off to the nearest rupee) and was immediately notified as Successful Bidder by the e-auction service provider.

9. That the successful bidder by way of transfer, deposited the bid amount of Rs. 90,44,962/- (Rupees Ninety Lakh Forty Four Thousand Nine Hundred Sixty Two only) as per the following table:

| S. No.                | Date       | Amount (In Rs.)                                       | Mode          | Bank           |
|-----------------------|------------|-------------------------------------------------------|---------------|----------------|
| 1.                    | 26.10.2023 | 8,94,496.25                                           | Bank Transfer | Kotak Mahindra |
| 2.                    | 16.11.2023 | 10,00,000/-                                           | Bank Transfer | Kotak Mahindra |
| 3.                    | 17.11.2023 | 3,66,744.25                                           | Bank Transfer | Kotak Mahindra |
| 4.                    | 29.11.2023 | 40,00,000/-                                           | Bank Transfer | Kotak Mahindra |
| 5.                    | 01.12.2023 | 27,83,721/-                                           | Bank Transfer | Kotak Mahindra |
| <b>Total (In Rs.)</b> |            | <b>90,44,962/- (Rounded off to the nearest Rupee)</b> |               |                |

10. That the distribution of the proceeds or amount realized by sale of corporate debtor as a Going Concern has been done strictly in accordance with the provisions of the Code, and rules and regulations made thereunder and the Distribution made to the stakeholder is as below:

| <b><i>Date</i></b> | <b><i>Particulars</i></b>                           | <b><i>Amount</i></b> |
|--------------------|-----------------------------------------------------|----------------------|
| 19.01.2024         | Amount Transferred to Achiever<br>Infratech Limited | 90,44,962            |

11. Pursuant to conclusion of E-auction, successful bidder was issued Letter of Intent dated 10.11.2023 and had also submitted complete payment as per terms of E-auction document.

12. That the liquidator after receiving the complete payment as per terms of LOI and the approval of acquisition scheme from the stakeholders in 5th SCC meeting, issued sale certificate dated 07.03.2024 to the acquirer/bidder namely Mr. Yash Sharma. Accordingly, the acquirer gave his acceptance consent to such sale certificate on 07.03.2024 and subsequently acquisition of corporate debtor from liquidator on 07.03.2024.

13. The members of SCC in the 5th SCC Meeting duly approved the Acquisition Scheme as submitted by the successful bidder, and hence applicant has filed the present application for closure of liquidation process.

14. The liquidator after receiving the complete payment as per terms of LOI and the approval of acquisition scheme from the stakeholders in 5th SCC meeting, issued sale certificate dated 07.03.2024 to the successful bidder. Accordingly, the acquirer gave his acceptance consent to such sale

certificate on 07.03.2024 and subsequently took acquisition of corporate debtor from liquidator on 07.03.2024.

15. The applicant submits that none of the property/assets belonging to the corporate debtor remains to be sold, since the corporate debtor has been sold as going concern.

16. The Audited Receipt and Payment A/C for the liquidation period starting from 13.07.2023 to 06.03.2024 has been prepared in accordance with the IBBI (Liquidation Process) Regulations, 2016 by the Auditor appointed by the Liquidator namely M/s Vipin Aggarwal Kudsia and Associates, Chartered Accountants.

#### **Analysis and Findings –**

17. We have perused the documents placed on record by the Applicant tendered by the Counsels for the Applicant.

18. The applicant submits that none of the property/assets belonging to the corporate debtor remains to be sold, since the Corporate Debtor has been sold as going concern.

19. The distribution of the proceeds or amount realized by sale of corporate debtor as a Going Concern has been done strictly in accordance with the provisions of the Code, and rules and regulations made thereunder and the distribution made to the stakeholder on 19.01.2024 to Achiever Infratech Limited amount to Rs. 90,44,962/-.

20. The Final Report is submitted by the Liquidator and accordingly liquidation proceedings against the Corporate Debtor namely Banyantree Infradevelopers Private Limited is closed under Regulation 45(3)(a) read with Regulation 32(e) of IBBI (Liquidation Process) Regulations, 2016 by including the name of Acquirer/ Successful Bidder;

21. The reliefs under Section 32A are available to the Corporate Debtor (SRA) in the case of Approval of Resolution Plan. However, the situation with respect to the sale of Corporate Debtor as Going Concern in the Liquidation Process is very much similar to take over of the Corporate Debtor through the Resolution Plan by the SRA. Hence drawing the analogy from the Resolution Plan, the Acquirer of the Corporate Debtor as Going Concern during the Liquidation Process should be entitled to the same immunity as granted to the SRA after approval of Resolution Plan under Section -32A.

22. **The Hon'ble NCLAT in the case of M/s Shiv Shakti Inter Globe Exports Pvt. Ltd. Vs. KTC Foods Pvt. Ltd.,** in Company Appeal (AT) (Insolvency) No. 650 of 2020-: Paragraph -22 has held as below-:

*“22. It is no longer Res Integra that while approving a ‘Corporate Debtor’ sale as a ‘going concern’ in Liquidation Proceedings without its dissolution in terms of Regulation 32(e) of the Liquidation Process Regulations, 2016, it is essential to see that the ‘Corporate Debtor’ is not burdened by any past or remaining unpaid outstanding liabilities prior to the sale of the Company as a ‘going concern’ and after payment of the sale proceeds*

*distributed in accordance with Section 53 of the Code. The Impugned Order in I.A. 889 of 2020 is modified to the extent that the sale of the first Respondent as a 'going concern' is upheld and the direction sought for in prayer (c) & (e) in CA No. 1189 of 2019 seeking extinguishment of past/remaining unpaid outstanding liabilities including contingent liabilities, prior to the sale as a 'going concern', after payment of sale proceeds distributed in accordance with Section 53 of the Code, is allowed."*

23. Hence in the light of the above the liquidation process is hereby approved to be "closed" without dissolving the corporate debtor under Regulation 45(3) of the "IBBI Liquidation Regulations, 2016 for closure of liquidation process" without dissolving the Corporate Debtor and hence, the Corporate Debtor will function under the same name and corporate identification number. It is also declared that all outstanding liabilities, dues payable, action against the corporate debtor prior to the date of acquisition shall be extinguished as has been mentioned in Para-21 of the order.

24. Under Regulation 45A Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator is directed to preserve a physical or electronic copy of the reports, registers, books of account. The liquidator shall preserve electronic copy of all records (physical and electronic) for a minimum period of eight years and a physical copy of records for a minimum period of three years.

25. File be consigned to the Record Room.

26. Consequently, this Adjudicating Authority allows the application filed by the applicant.

**-SD/-**

**(RAHUL BHATNAGAR)**  
**MEMBER (TECHNICAL)**

**-SD/-**

**(MAHENDRA KHANDELWAL)**  
**MEMBER (JUDICIAL)**