

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-V**

**IA No. 5888 of 2022
IN
CP (IB) No-725/ND/2022**

IN THE MATTER Of:

ICICI Bank Ltd

...Financial Creditor

Vs.

Dehradun Highways Project Ltd

...Corporate Debtor

AND IN THE MATTER OF:

Mr. Anil Kohli

Resolution Professional of

Dehradun Highways Project Ltd

Reg. off: 409, 4th Floor, Ansal Bhawan,

K.G. Marg, New Delhi-110001

...Applicant

CORAM:

SHRI P.S.N PRASAD, HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP : Mr. Abhishek Anand, Mr. Sahila Bhatia, Advocates.

For the Director/
Ex-Managment : Mr. Nagesh, Sr. Adv. With r. Apoorv Agarwal, Ms Shikha
Khurana, Advs

Order Dated: 23.01.2023

ORDER

PER: DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)

The instant application is being filed by Mr. Anil Kohli ('applicant') i.e., the Resolution Professional of M/s. Dehradun Highways Project Limited ('Corporate Debtor') seeking Liquidation of Corporate Debtor in terms of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 on a resolution passed by Committee of Creditors ('CoC') in its 16th meeting convened on 14.11.2022 and praying for the following relief(s):-

- a) Allow the present application, and
- b) Pass an order under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 to liquidate the Corporate Debtor;
- c) Consequentially, pass an order for appointment of Applicant i.e. Mr. Anil Kohli having Registration Number: IBBI/IPA-001/IP-P00112/2017-2018/10219 as the Liquidator of the Corporate Debtor;
- d) 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. The brief facts of the case leading to filing of this application as averred by the applicant are as follows:

- a) The applicant submits that this Adjudicating Authority vide its order dated 18.09.2020 had initiated Corporate Insolvency Resolution Process against M/s. Dehradun Highways Project Limited ('Corporate Debtor') in C.P.(IB)725/ND/2020, being an application filed under Section 7 of the Code by ICICI Bank Limited ('Financial Creditor') and appointed Mr. Anil Kohli as the Interim Resolution Professional of the Corporate Debtor who was later confirmed as the Resolution professional of the corporate debtor vide order dated 24.11.2020.

- b) The applicant submits that the public announcement in Form – A was made on 22.09.2020 inviting the claims from the creditors of the Corporate Debtor and the last date for submission of proofs of claim was 02.10.2020, consequent to which Committee of Creditors (‘CoC’) comprising six (6) financial creditors was constituted which was later re-constituted comprising of seven (7) financial creditors.
- c) The applicant submits that the invitation for expression of Interest in Form G, after the approval of the CoC was published in two newspapers i.e., Economic Times (English Edition) & Navbharat Times (Hindi Edition) on 27.12.2021, pursuant to which expression of interest was received from around fourteen (14) Prospective Resolution Applicants. The applicant adds that the last date for submission of Resolution Plan was 25.02.2022, whereupon only one (1) resolution plan was received that too without the requisite EMD amount of Rs. 10 crore which was a mandatory requirement under the Request for Resolution Plan.
- d) The applicant submits that the CoC in its 6th CoC meeting held on 28.02.2022, had unanimously decided to give extended opportunity to all the existing 14 PRAs to submit the resolution plan by extending the last date of resolution plan by 15 days i.e., till 16.03.2022. The applicant submits that only two resolution plans without EMD were received till the extended date of submission of resolution plan. The applicant adds that since the resolution plans were non-compliant of the provision of the RFRP, the resolution plans were not placed before the CoC for voting.
- e) The applicant submits that the COC in its 8th CoC meeting held on 12.04.2022 after deliberations had decided to explore another round for calling expression of interest for submission of resolution plan and also resolved to seek extension of 90 days of CIRP period beyond 180 days. The applicant further submits that extension of 90 days of CIRP w.e.f. 22.04.2022 beyond the period of 180 days was granted by this Adjudicating Authority vide order dated 27.04.2022 in I.A No.1942/2022.

- f) The applicant submits that in compliance of Regulation 36 A of CIRP Regulations, 2016, the applicant had published Form G on second occasion on 11.05.2022 in NCR edition of Times Group Newspaper wherein the last date for submission of expression of Interest was 26.05.2022 and last date for submission of resolution plan was 06.07.2022.
- g) The applicant submits that the CoC in its 11th CoC Meeting held on 11.07.2022 with 100 % voting in favor had resolved to seek extension of CIRP Period by further 60 days considering that the CIRP was going to expire on 21.07.2022 and there were chances of revival of Corporate Debtor and three Resolution Plans were submitted to the CoC for the consideration and voting of the CoC. The applicant further submits that this Adjudicating Authority vide order dated 25.07.2022 in I.A. No. 3478/2022 had allowed the further extension of 60 days i.e., till 19.09.2022 beyond the 270 days of the CIRPP.
- h) The applicant submits that in the 11th and 12th CoC meeting held on 11.07.2022 and 02.08.2022 respectively, all the 3 resolution plans received from the PRAs were discussed along with the compliance status of the resolution plans and infirmities therein. The applicant further submits that in the 13th CoC Meeting held on 08.09.2022, two resolution plans which were find compliant were put to vote which were rejected by the CoC with 72.27% votes against the approval of both Resolution Plans.
- i) The applicant submits that one of the suspended directors of the Corporate Debtor had vide e-mail dated 14.09.2022 had submitted a proposal of settlement to ICICI Bank, which was discussed by the CoC in its 14th CoC Meeting held on 15.09.2022. The applicant further submits that considering the proposal of settlement, the CoC resolved to seek extension of further 30 days beyond 330 days of CIRP period. The applicant adds that this Adjudicating Authority had granted extension in CIRP Period by further 30 days commencing from 20.09.2022 vide order dated 22.09.2022 in I.A.4564 of 2022. Further extension of 30 days with effect from 19.10.2022

was allowed by this Adjudicating Authority vide its order dated 04.11.2022 in I.A. No. 5349 of 2022.

- j) The applicant submits that in the 16th CoC Meeting held on 14.11.2022, CoC was apprised that the revised settlement proposal submitted by the suspended Board of Directors has been discussed and deliberated in detail in the joint lenders meeting wherein it was unanimously decided by the lenders present therein not to pursue with the said settlement proposal, therefore no withdrawal application in Form FA was submitted before the applicant in terms of Section 12A of the Code, 2016
- k) The applicant submits that the members of the CoC in 16th CoC Meeting held on 14.11.2022 with 100% voting share in favor have decided in their commercial wisdom to Liquidate the Corporate Debtor at the earliest keeping in view that since the CIRP of the Corporate Debtor is ending on 17.11.2022, two times resolution plan process has been conducted for Corporate Debtor which was not successful and moreover the option of withdrawal of proceedings under Section 12A of the Code is not found feasible by lenders, therefore, the only available option to proceed with, is filing of application for liquidation of the Corporate Debtor. The applicant further submits that during the deliberations, the members of CoC were apprised about various important provisions pertaining to liquidation of the Corporate Debtor.
- l) The applicant further submits that the applicant had given consent to act as the Liquidator in terms of Section 34(1) of the Code. The consent form to act as the Liquidator in Form AA along with IBBI Certificate is placed on record by the applicant.

3. We have considered the submission made by the Learned Counsel on behalf of the applicant/Resolution Professional and upon perusing the material available on record, it is observed from the minutes of the 16th CoC meeting held on

14.11.2022 that the CoC has unanimously decided to liquidate the Corporate Debtor and further decided to appoint the applicant as the liquidator with vote share of 89.67% in the favor.

4. The Members of the CoC has resolved that the existing Resolution Professional Mr. Anil Kahli be appointed as Liquidator of the Corporate Debtor and approved the professional fees of the liquidator in the below manner and inclusion thereof in the Liquidation Cost: In case of any realization from liquidation estate: In first 6 months: INR 90 Lakhs plus GST Between 6- 12 months: INR 75 Lakhs plus GST After 12 months: INR 50 Lakhs plus GST. The said resolution was passed by the CoC with 89.67% votes in favor.
5. In the light of the above facts and circumstances, the instant application **I.A./5888/ND/2022** is **allowed** and M/s. Dehradun Highways Project Limited ('Corporate Debtor') is ordered to be liquidated with the following directions:
 - a. Mr. Anil Kohli, Resolution Professional of M/s. Dehradun Highways Project Limited having Registration No. IBBI/IPA-001/IP-P00112/2017-2018/10219 and having E-Mail id: insolvency@arck.in is hereby appointed as the Liquidator as provided under Section 34(1) of the Code, 2016.
 - b. 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.
 - c. 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;
 - d. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these

powers henceforth vest with the Liquidator appointed under Section 34(1) of the Code, 2016.

- e. 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.;
- f. This liquidation order 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.
- g. 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. 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 as per law.
- i. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- j. Copy of this order be sent to the Corporate Debtor, CoC members, Liquidator and RoC, NCT of Delhi & Haryana for taking necessary steps.

6. With the above directions, this application i.e., **I.A./5888/ND/2022 in Company Petition No. (IB)- 725(ND)/2020** is hereby allowed and disposed of.

Sd/-
(DR. BINOD KUMAR SINHA)
MEMBER (T)

Sd/-
(SHRI P.S.N PRASAD)
MEMBER (J)