

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

10. I.A. 3120/2022

IN

C.P.(IB)-160(MB)/2022

CORAM: SH. H. V. SUBBA RAO, MEMBER (J)
SH. K. K. SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **01.11.2022**

NAME OF THE PARTIES: HUBTOWN LIMITED

Vs.

TIN TIME CONSULTANCY PRIVATE LIMITED.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

CS Nithish Bangera i/b Ms. Maithili Nandedkar, counsel for the Resolution
Professional is present through virtual hearing.

I.A. 3120/2022

The above Interlocutory Application is filed by the Resolution Professional for
liquidation of the Corporate Debtor Company.

Heard the counsel appearing for the Resolution Professional and the above
Interlocutory Application is **allowed**. Detail order would follow:

List the Main Company Petition on **15.12.2022**.

Sd/-
K. K. SINGH
Member (Technical)
//SGP//

Sd/-
H. V. SUBBA RAO
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

I.A. 3120 OF 2022

IN

CP (IB) – 160/IBC/MB/2022

Under Section 33 of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Prakash Dattatraya Naringrekar

Resolution Professional for:

Tin Time Consultancy Private Limited

...Applicant/Resolution Professional

In the matter of

Hubtown Limited

...Financial Creditor

Versus

Tin Time Consultancy Private Limited

...Corporate Debtor

Order delivered on: 01.11.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri K. K. Singh, Member (Technical)

Appearance:

For the Applicant: Mr. Nitish Bangere, Advocate

1. The above application I.A. No. 3120/2022 is filed by Resolution Professional, Mr. Prakash Dattatraya Naringrekar (hereinafter referred to as the "Applicant") seeking liquidation of Tin Time Consultancy Private Limited (hereinafter referred to as the

“Corporate Debtor”) under Section 33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. The Hon’ble Tribunal be pleased to pass order for Liquidation of the Corporate Debtor.*
- b. The Hon’ble Tribunal be pleased to appoint Mr. Prakash Dattatraya Naringrekar as Liquidator of the Corporate Debtor.*
- c. Be pleased to pass such orders as the Hon’ble Tribunal may deem fit and proper.*

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 28.04.2022 in Company Petition No. 160/IBC/MB/2022 admitted the petition under Section 7 of the Code, filed by Hubtown 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. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
- B. It is further stated by the IRP that on 28.05.2022 a public announcement in Form A was published in The Free Press Journal (English) and Navshakti (Marathi) newspapers respectively.
- C. On 23.06.2022, the 1st meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) took place wherein the Applicant was appointed as the RP of the Corporate Debtor by the CoC.
- D. On 08.08.2022, in the 2nd CoC Meeting the CoC approved the publication of Invitation of Expression of Interest (hereinafter

referred to as the “EoI”) in Form G was published on 10.08.2022 in The Free Press Journal (English) and Navshakti (Marathi) newspapers respectively wherein the last date of submission of EoI was 25.08.2022.

- E. As on the last date of Invitation of Expression of Interest (EoI) no Expression of Interest was received by the Resolution Professional from the Prospective Resolution Applicants.
- F. In the 4th CoC dated 27.09.2022 the CoC in Item no. E discussed as follows:

“Item No. E – To discuss and approve Liquidation of the Corporate Debtor u/s 33 of the IBC, 2016:

The Resolution Professional informed there may be necessity to file Liquidation application with NCLT as there is no response for Expression of Interest published in the newspaper. The Committee took note of the same and discussed the matter.

The CoC also asked the RP about the time line. The RP stated that the order of CIRP was passed on 28th April, 2022 but the Certified copy of Order was received by the RP on 27th May, 2022. Looking at the earliest date, the last date of CIRP will be 25th October 2022.

The CoC deliberated that as no response has been received in terms of the Expression of Interest published, the Committee decided to go for liquidation of the Company as the Company is a non-going concern and there are also no major assets for recovery of the Corporate Debtor. The Committee of Creditors passed the following resolution on voting.

“RESOLVED THAT the Committee of Creditors unanimously approves Liquidation of the Corporate Debtor i.e., Tin Time Consultancy Private Limited and Mr. Prakash Dattatraya Naringrekar (Resolution Professional) be and is

hereby authorized to make an application before Hon'ble NCLT Mumbai bench for liquidation of the Corporate Debtor”.

“RESOLVED FURTHER THAT *the Resolution Professional be and is hereby authorized to forward the certified true copy of this resolution to any authority as and when required in connection to the above matter with request to act thereon.”*

- G. The Applicant further states that in the 4th CoC meeting dated 27.09.2022 the CoC with 100% voting decided to opt for Liquidation as a going concern for the first attempt of the Liquidation and if it fails, then sale by other methods should be tried under the Liquidation of the Corporate Debtor as well as appointing the Applicant as the Liquidator of the Corporate Debtor. The relevant extract of the resolution is reproduced herein below for ready reference:-

Resolution No. 1 – To discuss and approve Liquidation of the Corporate Debtor u/s 33 of the IBC, 2016:

“RESOLVED THAT *the Committee of Creditors unanimously approved Liquidation of the Corporate Debtor i.e., Tin Time Consultancy Private Limited and Mr. Prakash Dattatraya Naringrekar (Resolution Professional) be and is hereby authorized to make an application before Hon'ble NCLT Mumbai bench for liquidation of the Corporate Debtor”.*

“RESOLVED FURTHER THAT *the Resolution Professional be and is hereby authorized to forward the certified true copy of this resolution to any authority as and when required in connection to the above matter with request to act thereon.”*

Resolution No. 2 – To discuss and approve on meeting of the Liquidation Cost under Regulation 39B of IBBI (IRPCP) Regulations, 2016:

“RESOLVED THAT the estimated cost of Liquidation is Rs. 2,50,000/- per annum against which the best estimate value of Liquid Assets available to meet the liquidation cost amounts to approx. Rs. 75,000/-

RESOLVED FURTHER THAT the Liquid Assets available with the Corporate Debtor exceeds the Liquidation cost and hence the Committee of Creditors (CoC) is not required to make any provisions while approving the plan to provide for contribution to be made under Regulation 39B (3) of IBBI (IRPCP) Regulations, 2016.

RESOLVED FURTHER THAT in case of any possible shortfall in the liquid assets to meet the liquidation cost due to time difference or otherwise, the present CoC being the Financial Creditor will meet such cost from its sources as required under the provisions of the Code and applicable Regulations.”

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 4th CoC meeting that the CoC with 100% voting decided to liquidate the Corporate Debtor as a going concern for the first attempt and if it fails, then sale by other methods should be tried. The CoC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore allows the above Interlocutory Application Number 3120 of 2022 and passed the following:

ORDER

1. The above I.A. No. 3120/2022 is allowed and the Corporate Debtor Tin Time Consultancy 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. Prakash Dattatraya Naringrekar**, having Registration No. IBBI/IPA-002/IP-N00270/2017-2018/10783, having office at: 503-A, Blue Diamond CHS Ltd, Chincholi Bunder, Link Road Junction, Malad West, Mumbai - 400064, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to a fee of Rs. 2,50,000/- per annum in case of any possible shortfall in the liquid assets to meet the liquidation cost due to time difference or otherwise, the present CoC being the Financial Creditor will meet such cost from its sources as required under the provisions of the Code and applicable Regulations.
- 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 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.

With the above directions, this application i.e. I.A. No.3120 of 2022 is hereby allowed and disposed of.

Sd/-

K. K. Singh
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)