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NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
CORPORATE BHAVAN, 12TH FLOOR,
RAHEJA TOWERS, M G ROAD, BENGALURU 560 001.

No. NCLTB/CP (IB) No.225/BB/2018/1595

Dated: 01.02.2021

Insolvency and Bankruptcy Board of India,
2nd Floor, Jeevan Vihar Building,
Parliament Street, New Delhi - 110 001.

Dear Sir/Madam,

Sub: Forwarding of Order Copy in IA No. 462/2020 in CP (IB) No.225/2018.

With reference to the above subject cited, I am herewith forwarding the order passed on 06.01.2021 in the Matter of **Mr. Sandeep Arvind Tambekar Vs Conglome Techno Construction Private Limited** by this Hon'ble Bench for your Information and record.

Kindly acknowledge the receipt of the same.

Yours faithfully,

(A. BALASUBRAMANIAN)
COURT OFFICER

Insolvency and Bankruptcy Board of India
INWARD
Date: 8/2/2021 Time:
Sign: Geethika Dy. No. 1259
E. Office No.



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**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A.No.462 of 2020 in
C.P. (IB) No.225/BB/2018
U/s 33(1), 34(1) & 60(5) of the I&B Code, 2016
R/w Rule 11 of the NCLT Rules, 2016.

Between:

M/s. Bank of Maharashtra,
(On behalf of Committee of Creditors
of the Corporate Debtor)

Stressed Assets Management Branch,
'Janmangal', 4th Floor, 45/47,
Mumbai - 400023. ... Applicant

And

1.) Mr. Sandeep Arvind Tambekar
Mrs. Shefali Sandeep Tambekar
C-610, Shree Saryu CHS Limited
Western Express Highway
Near Dahisar Toll Naka Road,
Dahisar (E)
Mumbai - 400068. ... Financial Creditors

2.) M/s. Conglome Techno Constructions
Private Limited
Shri Lakshmi Narasimha Nilaya
House No. 15, 5th Main, 13th Cross,
MRS Nagar, Mathikere
Bengaluru - 560 054 ... Corporate Debtor

3.) Mr. Nimit Kalsi
*Resolution Professional of the
Corporate Debtor*
A402, Ravecha Heights,
Plot No. 25 Sector 7, Kharghar,
Navi Mumbai 410 210 ... Resolution Professional

Date of Order: 06th January, 2024

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)



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Parties/Counsels Present (through Video Conference):

For the Applicant : Mr. Vignesh Shetty

For the RP/Respondent : Ms. Ayushi Agarwal

ORDER**Per:**Rajeswara Rao Vittanala, Member (J)

1. I.A.No.462of 2020 in C.P.(IB)No.225/BB/2018 is filed by M/s. ~~State~~ Bank of Maharashtra, on behalf of Committee of Creditors of the Corporate Debtor(hereinafter referred to as 'Applicant') under Section 33(1), 34(1) & 60(5) of the I&B Code, 2016,R/w Rule 11 of the NCLT Rules, 2016 by inter seeking to pass an order of Liquidation U/s 33(1) of I&B Code, 2016 and in the terms and manner as laid down in the code; appoint a new Resolution Professional U/s 34 of the I&B Code, 2016 R/w Rule 11 of the NCLT Rules, 2016 as a Liquidator etc
2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:
 - (1) C.P.(IB)No.225/BB/2018 filed by Mr. Sandeep Arvind Tambekar & Mrs.Shefali Sandeep Tambekar U/s 7 of the IBC, 2016, R/w Rule 4 of the I&B(AAA) Rules, 2016, was admitted by the Adjudicating Authority, vide order dated 21.03.2019, by initiating CIRP in respect of M/s. Conglome Techno Constructions Private Limited, appointing Dr. Rajnish Kumar Pandey as IRP, imposing moratorium etc.In pursuant to the above order the IRP called upon the Creditors of Corporate Debtor to submit their claims with proof on or before 25.04.2019 to him. Subsequent to submission of claims, the IRP after collation of all claims received against the Corporate Debtor and determination of the financial position of the Corporate Debtor, constituted Committee of Creditors and held first meeting of COC on 10.05.2019.



- (2) During 1st meeting of COC, the authorized representative of Bank of Maharashtra (having voting share of 99.24%) expressed its unwillingness to appoint Dr. Rajnish Kumar Pandey as RP and proposed and approved to appoint Mr. Nimit Kalsi to act as RP and he in turn has filed his written consent to act as RP by in Form -AA dated 04.07.2019 and the Application was filed seeking for appointment of Mr. Nimit Kalsi as RP by replacing the existing IRP and the same was approved by the Tribunal vide order dated 01.08.2019 and the case was directed to be listed on 21.08.2019 for the RP to file its report. However, no progress report was filed by the RP neither on 21.08.2019 nor subsequently.
- (3) During process, the RP filed an I.A no. 454/2019 seeking to exclude the time gap of near about 99 days when the counting the period of 270 days prescribed under IBC, which was rejected by the Tribunal. The Hon'ble Tribunal order dated 03.01.2020 excluded 60 days from the statutory period already granted which expired on 20.12.2019. There were 05 (Five) COC meetings conducted on various dates, during these COC meetings, no representative from the RP's team except RP was present. The minutes of such meeting were also not circulated as per the extant guidelines under IBC. Further, despite requests vide emails, on receipt of minutes; the same were not corrected by making necessary/requested changes. Also Despite, Bank of Maharashtra requesting the RP to conduct vote before passing a resolution, however, RP has passed resolutions without putting the same to vote. Further, the RP has neither deliberated in the meeting regarding the efforts taken by him for the resolution of the corporate debtors nor disclosed any information regarding prospective resolution applicants. The RP has also failed to file any progress report till date and have not informed the COC of any Resolution Plan received from any Resolution Applicant.



- (4) Since the CIRP process expired on 20.02.2020, Bank of Maharashtra (having voting share of 95.22%) addressed various communications to the RP seeking status of the progress in the present matter more particularly letter dated 4th February 2020 wherein the Bank had sought various details from the RP. However, no response was received from the RP. Despite there being no progress on the part of the RP in the CIRP, the corpus fund provided by the Bank of Maharashtra was utilized to the fullest. Under the circumstances, the officials of Bank of Maharashtra, since November 2019 have been continuously following up with the RP regarding submission of details of utilization of the corpus fund. After continuous follow up, the RP submitted the details along with bills for utilization of corpus in the month of February 2020. However, Bank of Maharashtra found discrepancies and requested the RP to submit the details of expenses incurred in a proper manner.
- (5) It is stated since CIRP period have expired and that no Resolution Plan have been received under Section 30(6) of IBC, it is a fit case that the Order of Liquidation under Section 33(1) of the Code be passed initiating liquidation of the Corporate Debtor, in the manner as prescribed in the Code. Since the Applicant failed to discharge his statutory functions, he cannot be continued as RP or to appoint him as Liquidator.
3. Heard Mr. Vignesh Shetty, learned Counsel for the Applicant and Ms. Ayushi Agarwal, learned Counsel for RP through **Video Conference**. We have carefully perused the pleadings of the Party and the extant provisions of the Code and the Rules made thereunder.
4. As detailed supra, the Resolution Professional and the COC of the Corporate Debtor, had not find a suitable Resolution Plan to revive the business of the Corporate Debtor. However, in the absence of any Resolution Plan received, there is no other alternative for the COC



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except to seek to order to liquidate the Corporate Debtor as per the provisions of the Code. The Resolution to initiate liquidation was also approved by the COC with requisite majority and the instant Application is filed strictly in accordance with law. The Respondent No.3(IRP) failed to discharge his statutory functions and the COC with requisite majority has resolved to remove him with new one. Therefore, it is a fit case to initiate Liquidation proceedings in respect of Corporate Debtor and to appoint Liquidator from the among the list circulated by IBBI for Bangalore Bench, January, June, 2021. Therefore, we are inclined to appoint Mr. Kondisetty Kumar Dushyantha IBBI/IPA-002/IP-N00237/2017-18/10688 dushyanthak@gmail.com Karnataka Bengaluru, who is having considerable experience in insolvency proceedings.

5. In view of the facts and circumstances of the case, the Adjudicating Authority, by exercising powers conferred under Section 33(2) of the IBC, 2016, dispose of **I.A.No.462 of 2020** in C.P.(IB)No.225/BB/2018 with following directions:

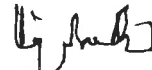
- a) It is hereby ordered that M/s.Conglome Techno Constructions Private Limited, Corporate Debtor to be liquidated in the manner as laid down in Chapter III of Part II of Code, R/w IBBI(Liquidation process) Regulations, 2016.
- b) Shri Mr. Kondisetty Kumar Dushyantha IBBI/IPA-002/IP-N00237/2017-18/10688dushyanthak@gmail.com Karnataka Bengaluru is hereby appointed as a Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI. He is directed to follow due process of law as per above Chapter and Regulations and to issue public announcement immediately by stating that the Corporate Debtor is in liquidation.



- c) The Liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder framed by the IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders.
- d) The Registry is directed to communicate a copy of this order to all Parties including IBBI immediately for information and to take necessary action;
- e) Post the case for report of Liquidator on **25th February, 2021**



(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL

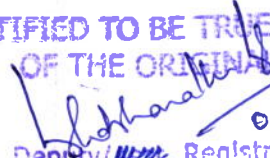


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

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CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

for 
Deputy/Registrar
National Company Law Tribunal
Bengaluru Bench
Rajeshwari. M