

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

**IA(IBC)(LIQ.)/4(KB)2025
In
C.P.(IB)/191/KB/2023**

An application under Section 33(2) of Insolvency and Bankruptcy Code, 2016 and the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

IN THE MATTER OF:

Impex Ferro Tech Limited

... Operational Creditor

Versus

Angaraj Vanijya Private Limited (AVPL)

... Corporate Debtor

And

Bishwanath Choudhary, Resolution Professional of Angaraj Vanijya Private Limited (AVPL)

... Applicant

Date of Pronouncement: 24th of July 2025

CORAM:

SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)

CMDE SIDDHARTH MISHRA, MEMBER (TECHNICAL)

APPEARANCE:

Mr. Anuj Singh, Adv.

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For the RP

Ms. Rashmi Singhee, Adv.

Ms. Simran More, Adv.

Mr. Biswanath Choudhary

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RP-in person

Mr. Riyanshu Agarwal, Adv.

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For the Respondent Board

ORDER

Per: Cmde Siddharth Mishra, Member (Technical):

1. The Court congregated through hybrid mode.

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2. Heard Ld. Counsels for the parties.
3. This application has been filed under Section 33(2) of Insolvency and Bankruptcy Code, 2016 and the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by **Bishwanath Choudhary, Resolution Professional of Angaraj Vanijya Private Limited (AVPL)** (hereinafter referred as **“Applicant”**) seeking following reliefs:
 - “a) To initiate the liquidation process of the Corporate Debtor as decided by the members of CoC with voting rights;*
 - b) To appoint M/s Bishwanath Choudhary (IBBI/IPA-002/IP-N00597/2018- 2019/ 12042) as the Liquidator in the Liquidation process of M/s Angaraj Vanijya Private Limited.;*

Factual Matrix:

4. By an Order dated 24.10.2024, this Tribunal had appointed Mr. Bishwanath Choudhary, bearing registration number IBBI/IPA-002/IP-N00597/2018-2019/12042 as Interim Resolution Professional. Later, in the 1st CoC meeting held on 28.11.2024, he was appointed as Resolution Professional (RP).

Ld. Counsel for applicant:

5. Ld. Counsel appearing for applicant submits that since there is no operation/business in the corporate debtor and also as there are no assets in the corporate debtor, the CoC in their third meeting held on 03.01.2025, was of the view that there is absolutely no possibility of getting any resolution in this corporate debtor and as such had advised not to publish any Form G and rather initiate Liquidation proceedings of the corporate debtor.
 6. Ld. Counsel submits that in the 4th meeting of the Committee of Creditors (CoC) of Angaraj Vanijya Private Limited (AVPL) dated 14th February 2025 the CoC deliberated on the matter of initiating
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liquidation once again, taking into account the valuations and also the outcome of Transaction Audit Report and advised the Chairman to take necessary steps for filing of the application for initiation of liquidation proceedings forthwith. Copy of the valuation report is annexed in pages No. 23 to 31 of the supplementary affidavit and marked as **Annexure “B”**.

7. Ld. Counsel for applicant submits that the CoC had also accorded their consent for the appointment of Mr. Bishwanath Choudhary, the current Resolution Professional (RP), bearing registration number IBBI/IPA-002/IP-N00597/2018-2019/12042 and holding valid AFA, as the Liquidator in the liquidation process of the Corporate Debtor.
8. The Ld. Counsel for applicant submits that it was resolved that the consent of CoC be and is accorded for making necessary applications for getting necessary approvals from this Tribunal, for liquidation of Angraj Vanijya Private Limited, by the Resolution Professional, in accordance with IBBI (CIRP) Regulations, 2016.
9. Further, the Ld. Counsel submits that it was resolved that the fees of the Liquidator, along with other liquidation costs to be incurred, shall be determined by the Stakeholders' Consultation Committee upon its formation.

Analysis and Findings:

10. In view of above, and after perusing the application and going through all the documents annexed thereunder, we deem it appropriate to pass the following Order(s):
 - I. Prayers as sought for in **IA(IBC)(LIQ.)/4(KB)2025** filed by RP, is allowed and **Angaraj Vanijya Private Limited (AVPL)**, the
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corporate debtor is Ordered to be liquidated in terms of section 33(1) of the Code.

- II.** To fortify our views, we would rely on the judgment rendered in ***Sunil Surrendrakumar Kakkad Vs. Sujyot Infrastructure Pvt. Ltd.*** passed by the Hon'ble NCLAT New Delhi, wherein the Hon'ble NCLAT held that:

“Section 33(2) of IBC empowers the CoC for deciding to initiating liquidation even before inviting Resolution Plans | Decision of CoC to liquidate the Corporate Debtor is not open to Judicial Review | A liquidation order passed under Section 33 of IBC can be challenged only on the grounds of material irregularity or fraud, as provided under Section 61(4) of Insolvency Code.”

- III.** We would notice that the IBBI Circular *vide* Liq-12011/214/2023-IBBI/840 dated 18.07.2023, debars Resolution Professional (RP) from appointing as Liquidator, and reads as under:

- “1.** *The Code envisages time bound resolution of the Corporate Debtor (CD) to maximise the value of the assets. In cases where the CD has not been resolved successfully, Adjudicating Authority (AA) orders for initiation of the liquidation process of the CD and appoints a liquidator. In this regard, Section 34 of the Code provides that where AA passes an order for liquidation of the CD, the resolution professional (RP) appointed for the CIRP shall act as the liquidator unless replaced by the AA under the following three circumstances:*
- (i)** *the resolution plan submitted by the RP under section 30 was rejected for failure to meet the requirements mentioned in sub-section (2) of section 30; or*
 - (ii)** ***the Board recommends the replacement of a RP to the AA for reasons to be recorded in writing; or***
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(iii) the RP fails to submit written consent.

- 2.** *Section 34(4)(b) inter-alia provides that the AA shall replace the RP if the Board recommends the replacement for reasons to be recorded. During the review of performance of processes under the Code, it has been found that there is a meagre 4% average realisation against the admitted claims during the liquidation process whereas in Corporate Insolvency Resolution Process (CIRP) the average realisation is 32% against the admitted claims during CIRP. This necessitated for fresh perspective in the liquidation process and replacement of RP to act as liquidator. This subject has been considered by the Board and it is considered that AA may appoint a new IP as liquidator due to the following reasons:*

(i) The IBC has been introduced with larger economic goals to revive the distressed viable CDs to convert non-performing assets as performing assets, promote employment, entrepreneurship, and credit by valuing capital invested in the project rather than selling in bits and pieces or recovery mechanism. The prime objective of the Code is resolution. Accordingly, in cases where the CD has not been successfully resolved or resolution plan has been failed, IP who has been assigned to conduct the resolution process of the CD, may not be recommended to continue to act as liquidator.

(ii) The Code creates an ecosystem for maximisation of the value of assets of a CD. Non-revival of the CD through CIRP adversely impacts on its value. Value is usually dependent on the time taken to resolve the insolvency since it erodes over time and rapidly once the insolvency proceedings commence. Therefore, any delay in the insolvency resolution process may make reorganisation of the CD difficult and would induce liquidation, thereby destruction of value for the stakeholders. Thus, an independent IP needs to be entrusted to conduct the Liquidation process of the CD for value maximisation while also ensuring the transparency and complete independence in two separate assignments.

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(iii) The Code envisages CIRP and liquidation as two distinct processes with distinct roles and responsibilities. Thus, an IP undertakes the two different assignments as RP and Liquidator, separately. Segregating the dual role of an IP in the same CD as RP and liquidator will foster an inbuilt system of check and balance in the process, thereby enhancing the accountability of each job and strengthening stakeholder's trust in the processes under the Code. Further, it would eliminate any perverse incentives, whatsoever, available with RP in deliberately pushing the CD towards liquidation and secure next assignment on ex-ante basis.

- 3.** *In view of above justification, the Board in exercise of its powers conferred under section 34(4)(b), recommends that an **IP other than the RP/IRP** may be appointed as liquidator in all the cases where liquidation order is to be passed henceforth. The liquidator can be appointed from the panel list of IBBI.”*

IV. Thus, the circular debars same RP to continue as Liquidator.

V. In view of IBBI Circular *vide* File No. IP-12011/1/2020-IBBI/176/96 dated 30.06.2025 **Mr. Santanu Brahma** having registration no. **IBBI/IPA-001/IP-P01482/2018-2019/12251**, email ID: **ip.santanubrahma@gmail.com**, is appointed as Liquidator in terms of section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member;

VI. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

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- VII.** Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in liquidation.
- VIII.** All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- IX.** The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- X.** On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.
- XI.** In accordance with section 33(7) of the Code, 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.
- XII.** In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.
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- 11.** With the above directions, this application being **IA(IBC)(LIQ.)/4(KB)2025 in C.P.(IB)/191/KB/2023** shall stand **disposed of.**
- 12.** List the main **C.P.(IB)/191/KB/2023** for reporting progress on **28.10.2025.**
- 13.** The Registry is directed to send e-mail copies of the Order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- 14.** Certified copy of this order, if applied for with the Registry be supplied to the parties in compliance with all requisite formalities.

**Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

Signed on this, the 24th day of July, 2025.

PH[PS]