

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court -II)  
KOLKATA**

IA(IBC)/468(KB)2023  
in  
CP(IB)/1908(KB)2019

*Under section 33(2) of the Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

Reliance Home Finance Limited

.... **Financial Creditor**

*Versus*

Raghav Sarees Pvt. Ltd.  
(U93000WB2009PTC132421)

.... **Corporate Debtor**

*And*

*In the matter of:*

Mr. Niraj Kumar Agrawal,  
Resolution Professional of Raghav Sarees Pvt. Ltd.

... **Applicant**

**Order reserved on: 08/05/2023**

**Order pronounced on: 02/08/2023**

*Coram:*

<b>Smt. Bidisha Banerjee</b>	<b>:</b>	<b>Member (Judicial)</b>
<b>Shri Balraj Joshi</b>	<b>:</b>	<b>Member (Technical)</b>

*Appearances (through hybrid mode):*

For RP	<b>:</b>	Mr. Shaunak Mitra, Adv. Mr. Sourav Jain, Adv.
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**ORDER**

***Per: Balraj Joshi, Member (Technical)***

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/468(KB)2023** is an application filed under section 33(2) of the

Insolvency and Bankruptcy Code, 2016 (in short “**IBC**”) by the Resolution Professional (“**RP**”) of **Raghav Sarees Pvt. Ltd.**, the Corporate Debtor, praying for liquidation of the Corporate Debtor. This application is supported by an affidavit<sup>1</sup> duly affirmed by Mr. Niraj Kumar Agrawal, the RP.

3. This Adjudicating Authority, on a petition filed u/s. 7 of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Reliance Home Finance Limited, the Financial Creditor, *vide* order<sup>2</sup> dated 13/06/2022 in CP(IB)/1908(KB)2019, had ordered initiation of CIRP against Raghav Sarees Pvt. Ltd., the Corporate Debtor. Mr. Niraj Kumar Agrawal was appointed as the Interim Resolution Professional (“**IRP**”).
4. In terms of regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Public Announcements<sup>3</sup> in **Form A** was published on 15/06/2022 in “*Business Standard*” (English) and “*Aajkaal*” (Bengali) inviting claims from creditors of the Corporate Debtor and also informed IBBI about the public announcement and requesting them to upload the same in their website.
5. The applicant duly intimated to the members of the suspended members of the Board of Directors of the Corporate Debtor about initiation of CIRP through e-mail<sup>4</sup> dated attaching therewith the order dated 13/06/2022 and the copy of Form A published. As per record of the MCA and Income Tax Department, the Corporate Debtor has not filed its Annual Accounts and Income Tax Return for the Financial Year 2021-22. A copy of Master Data of the Corporate Debtor is annexed as **Annexure D**<sup>5</sup>.
6. In response to public announcement dated 15/06/2022 only one claim was

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<sup>1</sup> At pages 29 and 31 of the application

<sup>2</sup> Annexure A at pages 32 to 42 of the application

<sup>3</sup> Annexure B at pages 43 and 44 of the application

<sup>4</sup> Annexure C at page 45 of the application

<sup>5</sup> At page 46 of the application

received only from the petitioning Financial Creditor and Committee of Creditors (in short “CoC”) was duly formed and RP had filed his report<sup>6</sup> dated 06/07/2022 on constitution of CoC with this Adjudicating Authority.

7. 1<sup>st</sup> CoC meeting was held on 13/07/2022. At the said 1<sup>st</sup> meeting of the CoC, IRP was confirmed as RP with 100% voting share and this Adjudicating Authority duly approved the same *vide* its order<sup>7</sup> dated 02/08/2022 passed in IA(IBC)/748(KB)2022.
8. In terms of regulation 36A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, **Form G** was published in “*Business Standard*” (English), Kolkata Edition and in “*Aajkaal*” (Bengali) on 29/08/2022 inviting Expression of Interest (in short “**EoI**”) from prospective resolution applicants (in short “**PRA**”). In response, several EoIs were received from PRAs. Only two PRAs, viz., (1) Madona Creation Pvt. Ltd. and (2) Nakshatra Corporation Advisors Ltd., have submitted their detail documents and their names were published in the Final List of PRAs. As per Form G last date of submission of Resolution Plan was 26/10/2022. At the request of the PRAs, CoC at its 5<sup>th</sup> meeting held on 26/10/2022 has extended the date till 10/11/2022. On 10/11/2022 only one PRA, Madona Creation Pvt. Ltd. had submitted its Resolution Plan and deposited an amount of Rs.20 Lakhs in terms of EoI by way of Bid Deposit/EMD. However, other eligible PRA, Nakshatra Corporation Advisors Ltd. had not submitted any Resolution Plan.<sup>8</sup>
9. At the said 5<sup>th</sup> meeting of the CoC held on 26/10/2022, the CoC has recommended to seek extension of 90 days from this Adjudicating Authority. Accordingly, an application being IA(IBC)1575(KB)2022 was filed with this Adjudicating Authority which was duly allowed *vide* order<sup>9</sup> dated 22/12/2022, thereby the 270 days CIRP would come to an end on 10/03/2023.

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<sup>6</sup> Annexure E at pages 47 to 55 of the application

<sup>7</sup> Annexure F at pages 56 to 57 of the application

<sup>8</sup> Averments in paragraph 4(m) at pages 18 and 19 of the application

<sup>9</sup> Annexure H at pages 60 to 61 of the application

10. The Resolution Plan received from the PRA was put for approval before the CoC wherein it was decided that the plan would be considered at the next meeting. The resolution plan was again placed before the CoC at its 6<sup>th</sup> meeting held on 02/02/2023. After due deliberation on the plan and going through the valuation report, CoC decided to allow the resolution applicant to submit a revised plan with better offer. It was also decided in the said meeting that a resolution for liquidation should also be included in the agenda of next meeting.<sup>10</sup>
11. At the 7<sup>th</sup> CoC meeting held on 13/02/2022, the CoC after due deliberation on the plan, has decided that as there was no business in the company and realization would be made from the sale of building which is only realizable asset, hence it would be prudent to put the company for liquidation. Minutes of the meeting has been annexed as **Annexure J**<sup>11</sup> and the CoC passed the following resolution for liquidation with 100% voting share:
- “RESOLVED THAT in pursuant to applicable provisions of the Insolvency and Bankruptcy Code, 2016, the consent of the members of CoC be and is hereby accorded to approve the filing of application with Hon’ble NCLAT, Kolkata Bench, for initiation of liquidation of Corporate Debtor.”*
- Voting results of the 7<sup>th</sup> CoC meeting have been placed as Annexure K<sup>12</sup> at pages 89 to 96 of the application.
12. In compliance of regulation 40A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the applicant has duly submitted timeline<sup>13</sup> adhered to.
13. Mr. Niraj Kumar Agrawal, Resolution Professional has submitted his consent<sup>14</sup> dated 23/02/2023 along with valid AFA issued by the Insolvency Professional

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<sup>10</sup> Averments in paragraph 4(p) at pages 20 of the application

<sup>11</sup> At pages 69 to 88 of the application

<sup>12</sup> At pages 89 to 96 of the application

<sup>13</sup> Annexure L at page 97 of the application

<sup>14</sup> Annexure I at pages 62 to 68 of the application

Agency (IPA) of which he is a professional member to act as the Liquidator of the Corporate Debtor.

14. It is to be noted here that the 270 days CIRP period has ended on 10/03/2023.
15. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
16. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.
17. This Bench, therefore, hereby orders as follows: -
  - a. IA(IBC)/468(KB)2023 filed by **Mr. Niraj Kumar Agrawal, RP of Raghav Sarees Pvt. Ltd.**, the Corporate Debtor, is allowed. Consequently, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
  - b. Though the RP has given his consent to act as the Liquidator of the Corporate Debtor but in view of direction of the IBBI Circular dated 18/07/2023 vide no. Liq-12011/214/2023-IBBI/840 for appointment of Liquidator other than IRP/RP under section 34(4)(b) of the Code, we are appointing Mr. Sriram Mittal (Reg. No. IBBI/IPA-001/IP-P02276/2021-2022/13677) having e-mail i.d. [srirammittal.ey@gmail.com](mailto:srirammittal.ey@gmail.com), mobile no. 9748755155 as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019. The Liquidator is directed

to submit his consent to act as Liquidator within **10 days** of receipt of this order. The erstwhile RP shall handover all papers and documents in his possession concerning the Corporate Debtor to the Liquidator appointed in this matter within **10 days**.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the IBBI (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., in “*Business Standard*” (English), Kolkata Edition and in “*Aajkaal*” (Bengali) stating that the Corporate Debtor is in liquidation.

e. 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.

f. 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.

g. 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.

h. 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.

- i. 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 Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the **Registrar of Companies, West Bengal**.
18. The application bearing **IA(IBC)/468(KB)2023** shall stand disposed of in accordance with the above directions.
19. **CP(IB)/1908(KB)2019** is to come up for filing of Periodical Progress Report on **16/10/2023**.
20. 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.
21. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

Signed on this, the 2<sup>nd</sup> day of August, 2023.

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court -II)  
KOLKATA**

**IA(IBC)/1423(KB)2022  
in  
CP(IB)/1908(KB)2019**

*Under sections 14(1)(b) and 74(1) of the Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

**Reliance Home Finance Limited**

**.... Financial Creditor**

*Versus*

**Raghav Sarees Pvt. Ltd.**

**(U93000WB2009PTC132421)**

**.... Corporate Debtor**

*And*

*In the matter of:*

Mr. Niraj Kumar Agrawal,

Resolution Professional of Raghav Sarees Pvt. Ltd.

**... Applicant**

*Versus*

Narendra Kumar Agarwal & 3 Others

**.... Respondents**

**Order reserved on: 08/05/2023**

**Order pronounced on: 02/08/2023**

*Coram:*

**Smt. Bidisha Banerjee**

**: Member (Judicial)**

**Shri Balraj Joshi**

**: Member (Technical)**

*Appearances (through hybrid mode):*

For RP

: Mr. Shaunak Mitra, Adv.  
Mr. Sourav Jain, Adv.

**ORDER**

***Per: Balraj Joshi, Member (Technical)***

1. This Adjudicating Authority convened through hybrid mode.
2. This application has been filed u/s. 14(1)(b) and 74(1) of the Insolvency and Bankruptcy Code, 2016, (in short “**IBC**”) by the Resolution Professional (in short “**RP**”) of **Raghav Sarees Pvt. Ltd.**, Corporate Debtor, praying for passing an order directing the respondents nos. 1, 2, 3 and 4 to refund the amount of Rs.76,693/- along with interest or take cognizance to punish the officers/men/agent/directors/representative u/s.74 of the IBC. This application is supported by an affidavit<sup>1</sup> duly affirmed by the RP.
3. This Adjudicating Authority, on a petition filed u/s. 7 of the IBC read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Reliance Home Finance Limited, Financial Creditor, *vide* order<sup>2</sup> dated **13/06/2022** in CP(IB)/1908(KB)2019, had ordered initiation of CIRP against Raghav Sarees Pvt. Ltd. appointing Mr. Niraj Kumar Agrawal as the Interim Resolution Professional (in short “**IRP**”).
4. In terms of section 15 of the IBC Public Announcement<sup>3</sup> was made in Form A on 15/06/2022 in “*Business Standard*” (English) and “*Aajkaal*” (Bengali) inviting claims from creditors of the Corporate Debtor and also informed IBBI about the public announcement and requesting them to upload the same in their website.
5. The IRP had duly intimated<sup>4</sup> suspended members of the Board of Directors of the Corporate Debtor about initiation of CIRP against the Corporate Debtor attaching a copy of the order dated 13/06/2022 along with public announcement in Form A dated 15/06/2022 through e-mail dated 15/06/2022.

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<sup>1</sup> At pages 25 to 27 of the application

<sup>2</sup> Annexure A at pages 28 to 38 of the application

<sup>3</sup> Annexure B at pages 39 and 40 of the application

<sup>4</sup> Annexure C at page 41 and averments in paragraph 4(d) at page 17 of the application

6. It is stated in the application that the applicant wrote letters to several banks – both public and private sectors based on PAN number of the Corporate Debtor seeking necessary information with regard to bank account, if any, maintained by the Corporate Debtor with them. In response, HDFC Bank, Dr. U. N. Brahmachari Street Branch, Kolkata had confirmed having a bank account, being A/c. no.50200040223193 in the name of the Corporate Debtor. Upon receipt of summary bank statement<sup>5</sup> for the period from 13/06/2022 to 20/06/2022 had revealed violation of Moratorium declared *vide* order dated 13/06/2022 u/s. 14 of the IBC.
7. The applicant immediately wrote through e-mail<sup>6</sup> dated 02/09/2022 to the respondent no.1 intimating about violation of Moratorium. In response, respondent no. 1 had duly replied *vide* e-mail<sup>7</sup> dated 14/09/2022 stating that the cheque was handed over before commencement of CIRP, i.e., 13/06/2022.
8. Thereafter, the applicant obtained copy of cheques cleared and the deposit slip for the same which reveals that the cheque for Rs.66,000/- was dated 16/06/2022 and deposited on 16/06/2022. Copy of cheque and deposit slip has been annexed as **Annexure H<sup>8</sup>**.
9. We have heard the Ld. Counsel for the RP, perused the application and the documents attached therewith.
10. On perusal of the application it appears that the respondents have blatantly violated the order dated 13/06/2022 by issuing cheques post admission of the Corporate Debtor under CIRP passed in CP(IB)/1908(KB)2019. On a perusal of the order dated 13/06/2022, it is evident that the Corporate Debtor was represented by one Ms. Soma Ray, Advocate. Also, *vide* orders dated 22/12/2022 and 06/02/2023 of this Adjudicating Authority directions to file reply affidavit have been given in presence of the Ld. Counsel appearing for R-1 and R-2.

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<sup>5</sup> Annexure E at page 42A of the application

<sup>6</sup> Annexure F at pages 43 to 46 of the application

<sup>7</sup> Annexure G at page 47 of the application

<sup>8</sup> Annexure H at pages 48 to 50 of the application

However, respondents have not availed that opportunity to file any reply affidavit in spite of directions given.

11. In view of the above circumstances, we hereby direct the respondent No. 1, Mr. Narendra Kumar Agarwal to deposit the said amount of Rs.76,693/- (Rupees Seventy Six Thousand and Six Hundred Ninety Three only) with the RP, Mr. Niraj Kumar Agrawal within two weeks of communication of this order to him. If he failed to do so within the aforesaid time, appropriate order will be passed under the provisions of the Insolvency and Bankruptcy Code, 2016.
12. List the IA(IBC)/1423(KB)2022 for reporting compliance of the aforesaid order on **16/10/2023**.
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 may be issued, if applied for, upon compliance of all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

Signed on this, the 2<sup>nd</sup> day of August, 2023.

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