

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

23. I.A. 620/2022

I.A. 10/2022

I.A. 2740/2021

In

C.P.(IB)-3533(MB)/2018

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)

SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **30.03.2022**

NAME OF THE PARTIES: Praxis Corporate Services Pvt Ltd

V/s

Powai Cubicles Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Umang Khandelwal a/w Mr. Harsh Kesharia, Resolution Professional in person and Mr. Nimad Sahasrabuddhe, counsel for the Applicant are present through virtual hearing.

I.A. 10/2022 & I.A. 2740/2021

The above Applications are filed by the applicants to condone the delay with a further direction to the Resolution Professional to admit their claims. In view of passing liquidation order against the Corporate Debtor Company, both the above Applications become infructuous and stands disposed of directing the Applicant to put forth their claims before the Liquidator.

I.A. 620/2022

The above Application is filed for liquidation of the Corporate Debtor company.

The above Application is allowed. Detailed order will follow.

Sd/-

CHANDRA BHAN SINGH
Member (Technical)

Sd/-

H.V. SUBBA RAO
Member (Judicial)

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

**I.A. No. 620 of 2022
In
C.P. No. 3533/IB/2018**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Praxis Corporate Services Pvt. Ltd.
... Operational Creditor
V/s.
M/s. Powai Cubicles Pvt. Ltd.
... Corporate Debtor

I.A. No. 620/2022

Mr. Umang S. Khandelwal
... Applicant/
Resolution Professional

Order delivered on 30.03.2022

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Harsh Keshria, Advocate
Mr. Umang S. Khandelwal, Resolution Professional-in
person

ORDER

1. It is an application filed by the Applicant/ Resolution Professional, seeking liquidation of the Corporate Debtor namely (M/s. Powai Cubicles Pvt. Ltd.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying the following:

- a. To allow present application under Section 33 of the Code for liquidation of the Corporate Debtor;*
 - b. To appoint the Applicant Mr. Umang S. Khandelwal having Registration No. IBBI/IPA-001/IP-P00669/2017-2018/11142 as the Liquidator of the Corporate Debtor.”*
2. The Adjudicating Authority vide its order dated 26.02.2021 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Powai Cubicles Pvt. Ltd., wherein Mr. Umang Subhashchandra Khandelwal, was appointed as Interim Resolution Professional (IRP), who was confirmed as Resolution Professional (RP) subsequently.
3. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form A was published on 25.05.2021 in “Tarun Bharat” and “Business Standard” both Mumbai Edition.
4. It is further submitted by the Counsel for the Applicant that an advertisement, inviting Expression of Interest (EoI) in Form G first was published on 05.08.2021 and 27.08.2021 being the last date for submission of expression of interest and 11.10.2021 being the last date for submission of Resolution plan. Thereafter, the second EoI was published in form G on 29.11.2021 and 18.12.2021 being the last date for submission of expression of interest and 27.01.2022 being the last date for submission of Resolution plan.
5. It is submitted that the CIRP period was further extended by 90 days, CIRP of the corporate debtor was extended upto 16.02.2022, vide an order dated 07.12.2021. Thereafter, no EoI was invited.

6. The Counsel for the Applicant submits that the in response to the publication in Form G an invitation for Expression of Interest was received from two Prospective Resolution Applicant i.e. M/s. Brij Systems Ltd. and Mr. Nikhil Prakash Chaple.
7. The counsel for the Applicant states that only Brij System Ltd. filed its Resolution Plan with the Applicant. However, the Resolution Plan submitted by the Brij System Ltd. was rejected by the CoC in its 8th meeting held on 15.02.2022.
8. Thereafter, the Applicant submitted that the CoC in its 8th meeting resolved to liquidated the corporate debtor as the 270 days of the CIRP were ending on 16.02.2022 and no resolution plans were received by any of the Resolution Applicants to revive the Corporate Debtor.
9. It is further decided by the CoC that to sell the corporate debtor as going concern and in its failure the same would be sold in picemeal.
10. The CoC in the 8th CoC meeting held on 15.02.2022, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company. The following Resolution was passed;
“Resolved further that the appropriate application under section 33(2) of the IBC, 2016 for initiation of Liquidation of Powai Cubicles Pvt. Ltd., CD undergoing corporate insolvency resolution process be filed before the Hon’ble National Company Law Tribunal, Mumbai and its Resolution Professional, CA Umang Subhashchandra Khandelwal having IBBI registration number IBBI Registration Number IBBI/IPA0014/IP-P00669/2017-2018/11142 be appointed as the liquidator for the compan6y the Liquidator’s fee as prescribed in the fee table

under Regulation 4 (3) of the IBBI (Liquidation process) Regulations, 2016 be and is hereby ratified.”

11. Hence, the CoC in its 8th meeting held on 15.02.2022, with 100% voting rights passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
12. The Applicant/ Resolution Professional CA Mr. Umang Khandelwal, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.
13. Upon hearing the submissions of the Applicant and on the perusal of the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. The reasons assigned in the petition with regards to taking the decision of liquidation of Corporate Debtor by COC appears to be convincing. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

ORDER

- a. The Interlocutory Application No.620 of 2022 is hereby allowed.
- b. Mr. Umang S. Khandelwal, having Registration No. IBBI/IPA-001/IP-P00669/2017-2018/11142, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.

- c. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d. 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.
- e. The Liquidator appointed under section 34(1) of the Code. Will have 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.
- f. 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.
- g. 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.
- h. 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.

- i. 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.
- j. 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.
- k. The Interlocutory Application No. 620 of 2022 is hereby allowed and disposed of.

Sd/-
CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)