

**NATIONAL COMPANY LAW TRIBUNAL
COURT NO. V, MUMBAI BENCH**

IA No. 3134 of 2022

IN

C.P. (IB) 13 (MB) of 2019

Application filed under Section 33 (2) of Insolvency & Bankruptcy Code, 2016 and the Petition filed under Section 10 of Insolvency & Bankruptcy Code, 2016

In the matter of

Mr. Alok Kumar Mishra,

Resolution Professional of the Corporate Debtor

Having registered office at:

76, Whispering Palms Shopping Centre, Lokhandwala Complex, Akruli Complex, Kandivali (East), Mumbai-400101.

...Applicant

IN THE MATTER OF:

Cantronics Office Equipment Private Limited

having its registered office at:

Gala No. C/11, J. K. Industrial Estate-1, S-No. 40, Khairpada, Dist. Palghar Vasai, Thane- 401 305.

..... Corporate Applicant

Order Pronounced on: 30.06.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Shri Prabhat Kumar, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Maulik Chokshi, Counsel.

For the Operational Creditor (DGFT): Mr. M. S. Bhardwaj, Advocate.

Per: Kuldip Kumar Kareer, Member (Judicial)

ORDER

1. The present instant Application No. 3134 of 2022 has been filed by **Mr. Alok Kumar Mishra, Resolution Professional of the Corporate Debtor** seeking to initiate liquidation of the Corporate Debtor under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as “**Code**”).
2. The Applicant submits that the above Company petition No. 13 of 2019 was filed u/s. 10 of the Code for initiation of CIRP. This Bench vide order dated 20th April, 2022 ordered initiation of CIRP of the Corporate Debtor thereby appointing Mr. Alok Kumar Mishra as an Interim Resolution Professional.
3. Pursuant to that the Applicant made a public announcement (Form A) in accordance with Section 15 of the Code read with Regulation 6 of Chapter III of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 in the newspapers namely “Financial Express” (English edition) and “Mumbai Lakshdeep” (Marathi edition) on 30th April 2022 and also on the website of the Insolvency and Bankruptcy Board of India.
4. Pursuant to that the Applicant filed a detailed report regarding the constitution of the CoC as per the Regulations of the Code on 21st May 2022. Thereafter, the Applicant called for the first COC meeting of the Corporate Debtor on 27th May 2022. In the said COC meeting, one of the agenda items that was proposed by the COC for discussion was about the assets of the Corporate Debtor and whether to carry out the process of CIRP or to initiate liquidation, to which the Applicant had apprised the COC stating that, when

he had visited the site of the Corporate Debtor, he had found the machinery of the Corporate Debtor to be in a lockdown condition. Further, he had noticed that there was no business carried out since the last five years or so.

5. The Applicant further states that, he had arranged for the E Voting as per the scheduled time i.e., from 29th May 2022, 11.00 AM to 04th June 2022, 5.00 PM. To the utter shock and surprise of the Applicant, the Commissioner of Customs which comprised of 94.63 % of the total COC did not participate in the voting of the resolutions which were put to vote which included the appointment of the Applicant, the IP fees and the CIRP Cost.
6. The Applicant states that in order to comply with the provisions of the Code, he had called for the third COC meeting of the Corporate Debtor on 17th August 2022. In the said COC meeting, the Applicant had briefed the members of the COC regarding the steps he and his team had taken in order to further the process of CIRP with respect to the Corporate Debtor under the provisions of the Code in relation to the status report filed, verification of claims and admitting the same, and correspondence with Deputy Commissioner of Service Tax and with the representative of office of Additional DGFT.
7. The Applicant states that, in the third COC meeting, the Applicant had put forth in front of the COC (Agenda No. 4), the IRP Cost that he had incurred till that date and the IRP Fees which were outstanding from the initiation of CIRP ie 20th April 2021 to 27th July 2022 which amounted to Rs.7,08,315 /- which included IRP fees of Rs. 3,00,000/- from 28th April 2022 till 27th July 2022. The Applicant further stated that, the said resolution of the IRP costs and IRP fees raised by the Applicant, was put to vote by the COC.
8. The Applicant states that, in the first COC meeting held on 17th August 2022, one of the agenda items (Agenda No. 6) had proposed to the COC about liquidation of the Corporate Debtor, to which 71.38% of the COC Members present and voting had passed the resolution in favor of liquidation. Further the Applicant had appraised the COC his ineligibility to be appointed as the

liquidator due to non availability of AFA and had suggested the name of Ms. Bharati Daga bearing Registration Number IBBI/IPA-001/IP-P-01963/2020-2021/13070 bearing Authorization for Assignment (hereinafter referred to as "AFA") certificate AA1/13070/02/170823/104466 valid from 18th August 2022 till 17th August 2023, to be appointed as the liquidator. Subsequently, the COC had decided that, the said agenda for appointment of Ms. Bharati Daga be put to vote.

9. The Applicant further states that, he had arranged for the E Voting as per the scheduled time i.e., from 20th August 2022, 11.00 AM to 30th August 2022, 5.00 PM.
10. We have heard the learned counsel of the Applicant and perused the material on record. It is noted that the CoC has decided to liquidate the Corporate Debtor by 71.38% voting. COC has passed the resolution to liquidate the Corporate Debtor with requisite voting as given under section 33(2) of the IBC, 2016. Accordingly we allow this application and order as under:

ORDER

11. We pass the order for initiation of liquidation of Corporate Debtor in terms of provision of section 33(1) and 33(2) of IBC, 2016 read with regulations made there-under which shall be effective from the date of this order.
12. As per the section 34(1) of the IBC, 2016 and as suggested by the Applicant/RP, **Ms. Bharati Daga**, having Registration No. IBBI/IPA-001/IP-P-01963/2020-2021/13070 is hereby appointed as a Liquidator of the company **Cantronics Office Equipment Private Limited** which has been duly approved by CoC.
13. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor, hereafter, cease to exist. All these powers henceforth, vest with the Liquidator.

14. The personnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
15. That once Liquidation process initiated, by virtue of section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority as mentioned in section 33(5) of the IBC, 2016.
16. The Liquidator is at liberty to seek any directions, if need be, from this Tribunal during the Liquidation process.
17. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under section 33(5) of the Code.
18. This Liquidation order shall be a deemed to be 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.
19. It is directed to the Liquidator to first explore the sale of the Corporate Debtor as a going concern envisaged under Regulation 39C of the IBBI (Insolvency Resolution Process for the Corporate Persons), Regulations, 2016.
20. It is also directed to the Liquidator to take into consideration the liquidation value of Corporate Debtor as per the valuation report annexed with the Application. It is also directed to the CoC to contribute to the liquidation cost if any short fall occurs from the liquidation value of Corporate Debtor.

21. The present I.A. No. 3134 of 2022 is directing the appointed Liquidator to initiate and complete Liquidation process as envisaged under Chapter – III of the Code by following the Liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016. 12.
22. The Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order be also sent by the registry to the Operational Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional cum Liquidator by speed-post within one week from this order.
23. Accordingly, the present I.A. No. 3134 of 2022 is **allowed** and stands **disposed of**.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

KULDIP KUMAR KAREER
Member (Judicial)