

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT V**

I.A. 91 OF 2021

IN

CP (IB) -4230/ MB/2019

Under Section 33 (2) and Section 34 (1) of
the Insolvency & Bankruptcy Code, 2016

Filed by

Ms. Jovita Reema Mathias

Resolution Professional for:

M/s Pratibha Skyscrapers Private Limited

...Applicant

In the matter of

**Kai Bhimrao Jyoti Chavan Multistate
Co-op. Credit Society Ltd.**

110, 1st Floor, West Wing, Aurora Tower,
Camp, Pune - 411001

...Financial

Creditor/Petitioner

Versus

Pratibha Skyscrapers Private Limited

Plot No. 49-50, Ramnagar Taluka,
Karveer, Kolhapur - 416005

...Corporate Debtor

Order delivered on: 13.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance:

For the Applicant: Apurva Sanglikar, Advocate I/b Link Legal

1. The above application I.A. No. 91/2021 is filed by Resolution Professional, Ms. Jovita Reema Mathias (hereinafter referred to as the "Applicant") seeking liquidation of M/s Pratibha Skyscrapers Private Limited (hereinafter referred to as the "Corporate Debtor") under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

- a. *To pass appropriate order(s) for liquidation of the Corporate Debtor under Section 33 of the Code,*
- b. *To pass appropriate order for appointment of Ms. Jovita Reema Mathias (IP registration number IBBI/IPA-002/IP-N00337/2017-2018/10941) as the Liquidator of the Corporate Debtor;*
- c. *To pass such other order(s) as the Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case.*

2. The brief facts of the application are as follows:

- A. The Applicant mentioned that this Tribunal, vide its order delivered on 20.01.2020, in Company Petition (IB) No. 4230, of 2019, admitted the Petition under Section 7 of the Code, filed by Kai Bhimrao Jyoti Chavan Multistate Co-Op Credit Society Limited (hereinafter referred to as the "Financial

Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against M/s Pratibha Skyscrapers Private Limited. Jovita Reema Mathias herein was appointed as the Interim Resolution Professional, (hereinafter referred to as the “IRP”) of the Corporate Debtor, by this Tribunal, vide the Order delivered on 20.01.2020

- B. On 27.02.2020, in the first meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) the Applicant was appointed as the Resolution Professional, which is approved by 100% members voting in favour of the same.
- C. The Resolution Professional apprised the Petitioner that the Corporate Debtor is not carrying on any activity and there are no banking transactions, related to the operations. However, there are expenses to be incurred during the CIRP, for which the Petitioner took note and approve the opening of a bank account in Bank Of India during CIRP with 100% majority.
- D. During the 2nd COC meeting held on 22.10.2020, the RP has admitted claim of Rs. 7,70,24,495/- of Bank of India, being Financial Creditor of the Corporate Debtor, and accordingly modified the voting rights of the existing members. The applicant further highlighted the members that Bank of India has filed a revised claim of Rs. 168,37,83,890/-, which includes the amount lent by Bank of India, to another entity, i;e Pratibha Krushi Prakriya Limited (“PKPL”), wherein the Corporate Debtor has given a Corporate Guarantee with an undertaking that in case Bank of India recover any amount from PKPL towards the outstanding dues, Bank of India shall notify the Applicant and accordingly file a revised claim, considering the recovery of amount from PKPL.

E. In the 2nd COC meeting, The Resolution Professional briefly apprised the members that the Corporate Debtor is in to Sub-Contracting of construction works. The operations of the Corporate debtor have been closed for the past One Year and there are no employees on the payroll of the Corporate Debtor. There are no Projects or work in hand, from which revenue can be generated, nor any construction related equipment's, which can be put to use, for the purpose of generating an income.

RP gave a brief about the current state of the company and informed the members that the company is not a going concern. The Corporate debtor does not have any assets except for the barren land. Considering the same, the RP placed the agenda before the members about exploring the option of Section 33(2) of the Code.

F. The COC in its 3rd meeting held on 27.11.2020, Approved the Liquidation of the Corporate Debtor, pursuant to Section 33(2) and all other applicable provisions, if any, of the Insolvency and Bankruptcy Code, 2016 ('the Code')

Name of the Member	Voting Rights	For	Against	Abstained
Bank of India	86.56	86.56	-	-
Kai Bhimrao Jyoti Chavan Multistate Co-op Credit Society Limited	13.44	13.44	-	-
Total	100.00	100.00	-	-

3. Heard the counsel appearing for the Resolution Professional and perused the record. The counsel for the RP submits that no Resolution Plan has been received and there is no option except to put the Corporate Debtor Company into Liquidation as per the Code as well as also to protect the asset of the Corporate Debtor from further deterioration. The counsel appearing for the Applicant also filed consent letter to act as the liquidator. In view of the above facts, this Bench feels that this is a fit case for ordering Liquidation of the Corporate Debtor. Accordingly, the Interlocutory Application Number 91 of 2021 is allowed directing Liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

1. The above I.A. No. 91/2021 is allowed and the Corporate Debtor M/s Pratibha Skyscrapers Private Limited is ordered to be liquidated.
 - a. **Ms. Jovita Reema Mathias**, having Registration No. IBBI/IPA-002/IP-N00337/2017-2018/10941 and having office at: 306, A Wing, Rustomjee Central Park, Andheri Kurla Road, Andheri East, Mumbai City, Maharashtra ,400069 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
 - b. 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.
 - c. 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.

- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. 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.

With the above directions, this application i.e. I.A. No. 91
of 2021 is hereby allowed and disposed of.

SD/-

Anuradha Sanjay Bhatia
MEMBER (TECHNICAL)

SD/-

H.V. Subba Rao
MEMBER (JUDICIAL)