

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

**M.A. No. 667 of 2020
In
C.P. No. 191/IB/2018**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Ultratech Cement Ltd.

... Operational Creditor

V/s.
Kale Infra Projects Pvt. Ltd.

... Corporate Debtor

M.A. No. 667/2020

Mr. Laxman Digambar Pawar

... Applicant/
Resolution Professional

Order delivered on 15.12.2020

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Ms. Raina Birla, Advocate

Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/s. Ultratech Cement 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 following reliefs:

- a. To consider and allow the instant MA for initiating liquidation of corporate debtor under Section 33(1)(a) & 34(1) of the Insolvency & Bankruptcy Code, 2016;*

2. The Adjudicating Authority vide its order dated 06.05.2019 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. Kale Infra Project Pvt. Ltd., wherein Mr. Laxman Digambar Pawar, was appointed as Interim Resolution Professional (IRP). Thereafter in the 1st meeting of the Committee of Creditors (CoC) held on 31.05.2019 Mr. Laxman Digambar Pawar, was appointed as Resolution Professional (RP) and the same was approved by this Bench.
3. The RP submits that the public announcement was made on 11.05.2019, in English and in “Loksatta” in Marathi.
4. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 26.01.2020. Thereafter, no EoI was invited and no Resolution plan was received.
5. It is submitted that the CIRP period was extended by 90 days w.e.f. 03.11.2019 and the CIRP extended came to an end on 01.02.2020.
6. The CoC in its meeting decided to appoint a Valuer. The RP accordingly appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
7. The RP submits that the fair market value and liquidation value given by the valuer is under;

	Land & Building (Rs.)
Fair market Value	15,74,99,340/-
Liquidation Value	11,03,24,571/-

8. The CoC in the 4th CoC meeting held on 18.02.2020, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company. The following Resolution was passed;

“Resolved that, the Committee of Creditors, at their Fourth meeting held on 18.02.2020, approved the initiation of liquidation of the Corporate Debtor and hence Resolution Professional is hereby

directed to file miscellaneous application and seek the further direction and order under Section 33(1)(a) and 34(1) of the Code from the Hon'ble NCLT, Mumbai as no Expression of Interest received from prospective resolution applicant.”

9. Hence, the CoC in its 4th meeting held on 18.02.2020, unanimously 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).
10. The Applicant/ Resolution Professional Mr. Laxman Digambar Pawar, has agreed to act as liquidator to carry on the process of liquidation.
11. Upon hearing the submissions of the Applicant and on reading 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. 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 Miscellaneous Application is hereby allowed.
- b. Mr. Laxman Digambar Pawar, Registration No. IBBI/IPA-003/IP-N00015/2017-2018/10104, 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.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)