

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II**

**I.A. (I.B.C) No. 7/KB/2024
in
CP (IB) No. 64/KB/2022**

State Bank of India

...Financial Creditor

Versus

Ganpati Hightech Communication Private Limited

... Corporate Debtor/Corporate Applicant

And

In the matter of:

Aditya Kumar Tibrewal

..Applicant/ Resolution Professional

*An Application under section 33(2) of the Insolvency and bankruptcy code,
2016 for liquidation in the matter of Ganpati Hightech Communication
Private Limited., Corporate Debtor*

Order pronounced on: 12/03/2024

Coram:

Smt Bidisha Banerjee, Member (Judicial)

Shri D. Arvind, Member (Technical)

Appearances (through hybrid mode):

For the RP

- 1. Sidhartha Sharma, Advocate**
- 2. Arjun Asthana, Advocate**
- 3. Sitikanto Mitra, advocate**
- 4. Aman Katowka, Advocate**

ORDER

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In Re Liquidation of Ganpati Hightech Communication Private Limited.

Per: Bidisha Banerjee, Member (Judicial)

1. This court convened *via* hybrid mode.
2. I.A. (I.B.C) No. 7/KB/2024 is an application filed praying for liquidation of the Corporate Debtor.

Brief facts

This Adjudicating Authority *vide* its order dated 3 August 2023 directed initiation of the Corporate Insolvency Resolution Process ('CIRP') of **Ganpati Hightech Communication Private Limited** ("Corporate Debtor"), on a Petition filed by **State bank of India** ("Financial Creditor ") against **Ganpati Hightech Communication Private Limited** under section 7 of the Insolvency and Bankruptcy Code, 2016 (*the Code*) and appointed **Mr. Aditya Kumar Tibrewal** as the Interim Resolution Professional ('IRP').

3. In terms of section 15 of the Code, public announcement was made and the Committee of Creditors ("CoC") was formed with *viz.* State bank of India.
4. In the 1st CoC meeting held on 4 September 2023, the CoC appointed **Mr. Aditya Kumar Tibrewal** as the Resolution Professional with voting share 100%.
5. The RP wrote several e-mail and letters dated 14.08.2023, 16.08.2023, 17.08.2023 to the erstwhile directors of the of the Corporate Debtor seeking books of accounts, Financial Statement, Article of Association and Memorandum of Association. But the erstwhile director did not give any record to the RP. The RP also visited the office of Corporate Debtor as per MCA record but could not found office as given in the record of MCA.

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6. The RP made paper publication on 18th December 2023 in three newspapers about the going CIRP of the Corporate Debtor, mentioning the name of the directors. But the directors did not cooperate even after newspaper publication.
7. On 10.11.2023, the RP published an invitation of interest in form G in two Newspaper. But the RP did not receive any EOI from any PRA as there is not realizable assets in the name of the CD.
8. In the 3rd meeting of CoC, the CoC asked the RP to Proceed with the Liquidation of the Corporate Debtor under section 33(2) of the IBC Code 2016 and passed the Resolution to liquidate the Corporate Debtor with 100% votes. The CoC has proposed the name of Mr Bishwanath Choudhary, Having registration Number IBBI/IPA-002/IP-N00597/2018-2019/12042, Email: Choudhary_bishwanath@rediffmail.com , as a Liquidator in terms of section 34 of the Insolvency and Bankruptcy Code, 2016

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9. This is an application filed by RP seeking liquidation of the Corporate Debtor, viz., **Ganpati Hightech Communication Private Limited**, on the ground that there is no scope of resolution, especially in the view of the fact there is no plan received during CIRP.
10. The Applicant has sought for the following reliefs:
 - a. *Pass an order of the Liquidation of the Corporate Debtor in the terms of 33(2) of the Insolvency and Bankruptcy Code, 2016 in view of the of the unanimous decision taken by the member of CoC on 15.01.2024 with Voting percentage of 100%.*
 - b. *Pass an order Appointing the Mr Bishwanath Choudhary, Having registration Number IBBI/IPA-002/IP-N00597/2018-2019/12042,*

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Email: Choudhary_bishwanath@rediffmail.com , whose name has been shortlisted by the CoC, as a Liquidator in terms of section 34 of the Insolvency and Bankruptcy Code, 2016 in view of the facts stated in the paragraph herein above.

- c. *And/or to pass such other order or orders as this Hon'ble Tribunal may deem fit and proper.*

Analysis and Findings

11. We have considered the submission made by the Ld. Counsel and perused the record.
12. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor when the CoC with 66% approves the Liquidation of Corporate Debtor.
13. Hence, we do find merit in the prayers made in I.A. (I.B.C) No. 7/KB/2024, and deem it fit to order liquidation of the Corporate Debtor.
14. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A. (I.B.C) No. 7/KB/2024 filed by RP, is allowed and **Ganpati Hightech Communication Private Limited.**, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code;
 - b. **Mr Bishwanath Choudhary, CA** having registration no. **IBBI/IPA-002/IP-N00597/2018-2019/12042** and **Email: Choudhary_bishwanath@rediffmail.com** is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member,
 - c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

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- d. Public Notice shall be issued in the newspapers 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 Applicant is registered.
- 15.** The application bearing **IA (I.B.C) No. 7/KB/2024** shall stand **disposed of** in accordance with the above directions.
- 16.** List the main **CP (IB) No. 64/KB/2022** for reporting progress on **25.04.2024.**

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17. 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.
18. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind
Member [Technical]

Bidisha Banerjee
Member [Judicial]

Order pronounced on the 12th day of March 2024.

NKS[LRA]