



**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH: C-IV**

IA-75(MB)2024

Under Section 33 of Insolvency & Bankruptcy
Code, 2016.

Mr. Indrajit Mukharjee

...Resolution Professional/
Applicant

In the matter of

C.P.(IB)/114(MB-IV)2023

Encore Asset Reconstruction Private Limited
(CIN: U74140DL2013PTC259641)

...Financial Creditor

Vs.

Tirupati Fabricators Private Limited
(CIN: U27300MH1989PTC054062)

...Corporate Debtor

Ordered pronounced on: **24.09.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Shri Kishore Vemulappalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP/Liquidator

: C.S. Nithish Bangera, Authorised
Representative, Mr. Indrajit
Mukherjee, RP present in person.



ORDER

1. This is an application filed by **Mr. Indrajit Mukharjee**, Resolution Professional of the Corporate Debtor seeking liquidation of **Tirupati Fabricators Private Limited** under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).
2. **Brief facts of the Application are as follows:**
 - a. This Tribunal vide an *order dated 06.10.2023*, in Company Petition bearing *C.P.(IB)/114(MB)2023* filed under Section 7 of the Code, by **Encore Asset Reconstruction Private Limited** (hereinafter referred to as the “**Financial Creditor**”), admitted the Company Petition and Corporate Insolvency Resolution Process (“**CIRP**”) was initiated against **Tirupati Fabricators Private Limited** (hereinafter called as the “**Corporate Debtor**”) and appointed **Mr. Indrajit Mukharjee** as Interim Resolution Professional and was confirmed as Resolution Professional in the 1st CoC meeting held on 06.11.2023.
 - b. Pursuant to the above said Order, the Applicant herein issued a Public Announcement in a Newspaper on 09.10.2023, in FORM A, thereby calling upon the Creditors of the Corporate Debtor to file their claims, along with proof on or before 21.10.2023.
 - c. The Applicant had issued Form-G - Invitation for Expression of Interest (EoI) dated 14.12.2023. The EoIs were to be submitted by 29.12.2023.



- d. The Applicant herein submits that the Resolution Professional received EoIs from 3 Prospective Resolution Applicants. However, the Applicant informed the CoC members in the CoC meeting held on 26.02.2024 that the time limit for receiving the Resolution Plan was 27.02.2024 and no Resolution Plan were received. Thus, the Applicant was left with no other option except to opt for Liquidation.
- e. The Applicant submits that the agenda of the Liquidation of the Corporate Debtor was put up before the CoC in the 6th meeting held on 15.03.2024, the same was approved with the majority of 100% of the votes to proceed with the liquidation of the Corporate Debtor and the e-voting results were concluded on 01.04.2024. The relevant extract of the Resolution is reproduced below: -

“Resolved that pursuant to Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and IBBI (Liquidation Process) Regulations, 2016, approval of the Committee of Creditors (CoC) is hereby accorded to approve the Liquidation Process in respect of Tirupati Fabricators Private Limited (Corporate Debtor) as well as to recommend the Liquidation to the Adjudicating Authority”.



3. Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.
4. In that view of the matter, having considered the submissions and on perusal of averments made in the present Interlocutory Application; this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority is left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration by the CoC and CoC by 100% vote has resolved to liquidate the Corporate Debtor. Hence ordered.

ORDER

- a) The Present Application viz. I.A 75/2024 in Company Petition 114(MB)/2023 stands allowed. The Corporate Debtor, ***Tirupati Fabricators Private Limited***, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) It is to be noted that, as per IBBI vide its circular no. LIQ-12011/214/2023-IBBI/840 dated 18.07.2023 in the exercise of its powers conferred u/s 34(4)(b) of the Code had recommended that an IP other than RP/ IRP may be appointed as a liquidator in all the cases where the Liquidator (read liquidation) order is passed henceforth. In view of this circular of IBBI, we



hereby appoint Abhijit S Gokhale, having Registration No. IBBI/IPA-002/IP-N00964/2020-2021/13092; Email- abhijitgokhale07@gmail.com as the Liquidator to conduct liquidation process of “*Tirupati Fabricators Private Limited*” as provided under Section 34(4) 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 Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavor to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case, he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.



- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit Progress Reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.
- m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
- n) Registry shall furnish a copy of this Order to:
 - i. Insolvency and Bankruptcy Board of India, New Delhi;



- ii. Regional Director (Western Region), Ministry of Corporate Affairs;
 - iii. Registrar of Companies & Official Liquidator, Maharashtra;
 - iv. Registered Office of the Corporate Debtor; and
 - v. Liquidator, Mr. Abhijit S Gokhale.
5. With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 75 of 2024 IN C.P.(IB)/114(MB)2023, stands disposed of as Allowed. There would however be no order as to costs. Ordered Accordingly.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Sd/-
KISHOR VEMULAPPALLI
Member (Judicial)