



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA (IBC)(Liq.)/4/KOB/2024

IN

CP(IBC)/44/KOB/2023

*(Under Section 33(2) of the Insolvency and
Bankruptcy Code, 2016 read with Rule 11 of the
NCLT Rules, 2016 for Liquidation of The
Corporate Debtor)*

In the matter of: *Nandanam Tiles and
Sanitaries Pvt Ltd*

MEMO OF PARTIES:

Mr. Jossy Steephen Kattur

Resolution Professional of Nandanam Tiles
and Sanitaries Pvt Ltd (IP Reg No. IBBI/IPA-
002/IP- No. 1056/2021-2022/13627),
Barons 16C, Skyline Imperial Gardens,
Kaloor- 682025

.... Applicant

Order delivered on: 14.08.2024

Coram:

Hon'ble Member (Judicial) : TMT. (Retd.) Justice T Krishna Valli
Hon'ble Member (Technical) : Shri. Ravichandran Ramasamy

Appearances:

For the Applicant : Mr. A. Kevin Thomas (Advocates) &
Mr. Jossy Steephen Kattur (Resolution
Professional)



ORDER

Per Coram

1. The present application is filed by Mr. Jossy Steephen Kattur, Resolution Professional (hereinafter referred to as "RP") of Nandanam Tiles and Sanitaries Private Limited (hereinafter referred to as "Corporate Debtor") under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for passing an order on liquidation of the Corporate Debtor.
2. The facts as narrated in the application and explained by the Learned counsel for the applicant/RP summarised hereunder:
 - i. The Applicant serves as the Resolution Professional for the Corporate Debtor, which entered CIRP on 19/01/2024. The applicant was appointed as the Interim Resolution Professional and thereafter as the RP of the corporate debtor on 17/02/2024.
 - ii. It is stated that the CD has claims totalling Rs. 61,11,9/8,169/- which consists of one secured creditor, i.e., M/s ARCIL, one unsecured financial creditor SBI, and Operational creditors. The CoC decided not to publish FORM G inviting EOI as the CD is not a going concern and no assets were located due to non-cooperation, hindering the Applicant's CIRP progress.
 - iii. The CIR period expired on 16/07/2024. In the 6th CoC meeting on 28/06/2024, creditors decided with 100% voting rights to liquidate the Corporate Debtor due to its non-operational

status and nil assets, avoiding further CIRP costs and appointing RP as Liquidator.

3. It is submitted that the Committee of Creditors has the discretion to decide on whether to seek an extension of the CIRP period or proceed with liquidation and the Resolution Professional is bound to follow the wisdom of the Committee of Creditors. The Committee of Creditors can approve a resolution with at least a 66% majority to initiate liquidation. The Resolution Professional must apply with this Tribunal based on this decision, despite the absence of received resolution plans.
4. We have heard the Learned Counsel for the applicant and perused the materials available on record. On 28.06.2024, the 6th meeting of the CoC in its commercial wisdom has decided unanimously to liquidate the Corporate Debtor under Section 33(2) of the IBC, 2016, we are of the opinion that the decision of the CoC should not be interfered with.
5. The Hon'ble Supreme Court in the matter of ***K. Sashidhar v. Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018*** has held that the commercial decision of CoC is non-justiciable. In this case, it is seen that CoC with a 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.
6. In the result, **Nandanam Tiles and Sanitaries Private Limited**, Corporate Debtor is ordered to be **liquidated**.



7. The CoC also passed the resolution to appoint the present RP/Applicant Mr. Jossy Steephen Kattur, to act as liquidator of the CD during the liquidation process. However, as per IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth.
8. In terms of the above circular of IBBI, we hereby appoint **Mr. Rajmohan R**, having his office at **Rajbhavan, HS 514/12/1 and 175A, Krishnapuram, 6th Street, Ollukkara P O, Krishnapuram Temple, Thrissur, Kerala 680655**, IBBI Reg: **IBBI/IPA-001/IP-P-02331/2020-2021/13517**, email id: **rajmohanip@gmail.com**, as the **Liquidator** of the Corporate Debtor, **Nandanam Tiles and Sanitaries Private Limited**. The Liquidator is directed to submit his consent to act as Liquidator within 10 days of receipt of this order.
9. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
10. The Liquidator is directed to forthwith take into his custody all the assets, properties, and actionable claims of the corporate debtor and take necessary steps to ensure the preservation,

protection security, and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.

11. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
12. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one-morning regional language newspapers.
13. All the powers of the Board of Directors of the Corporate Debtor and its key managerial personnel, shall cease to exist in accordance with Section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.
14. 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 a 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.



15. This petition is filed under 33(2) of the Code, the relief (iii) beyond the vires of the application. Hence, the liquidator may file a separate application if he so decides.
16. 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.
17. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala, within whose jurisdiction the Corporate Debtor is registered.
18. The fee of the Liquidator is to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.
19. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.
20. **IA (IBC)(Liq.)/4/KOB/2024 is disposed** of accordingly.
21. The Registry is directed to send e-mail copies of the order to the party and their learned counsel for information and to take necessary steps.



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In re Nandanam Tiles and Sanitaries Private Limited

22. A Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

RAVICHANDRAN RAMASAMY

MEMBER TECHNICAL)

Sd/-

T KRISHNA VALLI

(MEMBER JUDICIAL)

Signed on this, the 14th day of August, 2024.

Adarsh M Nair/LRA