



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

26. IA 2719/2021 in C.P. (IB)/140(MB)2020

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 04.09.2024**

**NAME OF THE PARTIES: - IA 2719/2021 Alliance Restaurant and Bars
Pvt. Ltd.**

IN THE MATTER OF

Alliance Restaurant and Bars Pvt Ltd

Section: 60(5) U/S 10 of the Insolvency and Bankruptcy Code, 2016

ORDER

IA 2719 of 2021

Presence:-

Mr. Yahya Batatawala a/w Prachi Wazalwar, Adv.

... for Applicant/RP

1. The Applicant, the Interim Resolution Professional ('IRP') has filed this Application, seeking liquidation and/or dissolution of the Corporate Debtor in accordance with Section 33 and/or Section 54 of the Insolvency and Bankruptcy Code, 2016 ('the Code') and the Regulations made thereunder.
2. The Counsel for the Applicant submits that the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor vide order dated 25th



June 2021 and the Applicant herein was appointed as the Interim Resolution Professional in accordance with the provisions of the Code. The Applicant made public announcement inviting claims vide paper publication dated 07.07.2021 in 2 newspapers namely, Financial Express (English) and Navkal (Marathi). Pursuant to the same, the Applicant received 3 claims from Financial Creditors which upon verification by the Applicant were found to be from the related parties. The claims received by the Applicant are as under:-

Sr. No.	Name of Creditors	Relation with the Corporate Debtor	Amount of Claims (In Rs.)
1.	Amber Credit Company Limited	Shareholder	3,71,70,000/-
2.	Bombay Construction and Infra Project Pvt. Ltd.	Shareholder	1,61,78,000/-
3.	Shree Hari Om Developers LLP	Related Party	29,80,285/-
	Total		5,63,28,285/-

The creditors at Serial Nos. 1 & 2 are shareholders of the Corporate Debtor, and the creditor at Serial No. 3 is a related party in terms of Section 5(24) of the Code. Accordingly, in terms of Section 21(2), they shall have no right to representation/participation of voting in the meeting of the CoC.

3. Apart from the above, no claims were received either from any financial creditor or operational creditor, or any other creditor to the Corporate Debtor.



4. As per the Balance-Sheet dated 31.03.2020 and 25.06.2021, the Corporate Debtor does not have any loan from any banks or financial institutions. The Counsel states that on account of the above, the Applicant is unable to constitute a valid Committee of Creditors in accordance with Section 21 of the Code.
5. The Corporate Debtor was engaged in the business of hotels and restaurants and as per the balance sheets and accounts maintained by the Corporate Debtor, the Corporate Debtor does not hold any land or building and the only assets owned by the Corporate Debtor are movable assets that were used for restaurants business. The restaurant was also operating on a rental premise at Mahalaxmi, Mumbai. On account of the dispute between the Corporate Debtor and its landlord, the Corporate Debtor was not allowed to use the premises and the substantial expenditure incurred towards the interior decoration of the Respondent has been rendered useless.
6. The Counsel further submits that there are no funds available in the Corporate Debtor to undertake the CIRP/Liquidation process and there is no valid CoC to make decisions.
7. Looking at the averments made in the application and considering the peculiar facts and circumstances of the case, we are of the considered opinion that no useful purpose would be served by prolonging the CIRP and this is a fit case for ordering liquidation. Therefore, we hereby order the liquidation of the Corporate Debtor in the following terms:



ORDER

- a. The **Mr. Anish Gupta**, holding **Registration No. IBBI/IPA-002/IP-N00285/2017-18/10843** is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai, and to the Insolvency and Bankruptcy Board of India; The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- c. This order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- d. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
- e. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.



- f. The liquidator shall also follow up the pending applications, if any, for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor, if any, as per law.
 - g. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
 - h. Copy of this order be sent to the financial creditors, Corporate Debtor, and the Liquidator for taking necessary steps.
8. The **IA No. 2719 of 2021** filed by the IRP for Liquidation of the Corporate Debtor **stands allowed** accordingly in aforesaid terms.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)
ANKIT

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)