



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (Court – II)
KOLKATA**

IA/IBC/LIQ./38(KB)2024

C.P. (IB)/164(KB)2022

***An application under Section 33(2) of the Insolvency and
Bankruptcy Code, 2016.***

In the matter of:

(1) State Bank of India, having its Office at Jeevan Deep Building, 1st Floor, 1, Middleton Street, Kolkata – 700 071.

... Financial Creditor

-Versus-

(2) Ambay Coke Industries Private Limited, having its regd. Office at 13/2A Priya Nath Mullick Road, P.S. – Bhawanipore, Kolkata, West Bengal, India – 700 026.

... Corporate Debtor

-And-

(3) Avishek Gupta, Resolution Professional having his Office at Ck 104, Salt Lake Sector – II, Kolkata – 700 091, West Bengal.

... Applicant/RP

Date of pronouncement of the Order: 03.12.2024

CORAM:

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)
SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)**

Appearance (via video conferencing/physically):

Mr. Rohit Kumar Keshri, Adv.] For the Resolution Professional
Mr. Ankit Chaurasia, Adv.]
Mr. Avishek Gupta, CA] RP-in-Person
Mr. Sarangam Chakraborty, Adv.] For the Suspended Board



ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The court convened through hybrid mode.
2. Learned Counsel/Authorised Representative appearing on behalf of the parties were heard *in extenso*.
3. This application being **IA(IBC)(LIQ.)/38(KB)2024** has been preferred to seek the following relief(s), *inter alia*: -

(a) To pass necessary Order of liquidation under Section 33 (2) of the Code, 2016;

(b) Such other Order/Orders as this Tribunal may deem fit and proper.

4. Factual matrix of the case is as under: -

(a) This application was filed by Financial Creditor (in short “FC”), i.e., **State Bank of India** against the Corporate Debtor (in short “CD”), i.e., **Ambay Coke Industries Private Limited**, under Section 7 of IBC, 2016 for initiating Corporate Insolvency Resolution Process (in short “CIRP”) along with moratorium under Section 14 of the Code against Ambay Coke Industries Private Limited, the Corporate Debtor (CD) was commenced on 22.05.2024 passed by this Tribunal, wherein the Applicant, namely, **Mr. Avishek Gupta**, Registration No. IBBI/IPA-003/IP-N000135/2017-2018/11499 is appointed as Interim Resolution professional (in short “IRP”) and later on the Applicant herein was confirmed and appointed as Resolution Professional (in



short “RP”) by the Committee of Creditors in its 1st CoC meeting dated 24.06.2024.

- (b) In terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016, the Applicant duly made a public announcement in "**FORM A**" on 25.05.2024, in "**Financial Express**" (English) and "**Ekdin**" (Vernacular) Kolkata Edition.
- (c) In terms of Regulation 6 (2) (c) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016, the last date for submission of proof of claim was on 05.06.2024. The Committee of Creditors was constituted on 14.06.2024. comprising one member, i.e., State Bank of India.
- (d) The Applicant is duty bound to conduct the entire Corporate Insolvency Resolution Process and to manage the operations of the Corporate Debtor during the insolvency process in as per Section 17 and 18 read with Section 23 of the Code, 2016.
- (e) Thereafter, the Applicant *vide* mail dated 24.05.2024 had duly intimated the directors/suspended members of Board of Directors of the Corporate Debtor / Respondents regarding initiation of insolvency process against the Corporate Debtor and his appointment as the Interim Resolution Professional. Further, the Applicant also requests to co-operate with him in providing access to documents and records pertaining to the said company for the smooth conduct of the insolvency resolution process.



(f) The Committee of Creditors in its 2nd meeting held on 20.07.2024 had approved the **“Form G”** for inviting Expression of Interest (in short “EoI”) from the Prospective Resolution Applicant (in short “PRA”) along with detailed Expression of Interest. The Applicant published the **“Form G”** on 22.07.2024, wherein the last date for receipt of EoI was 16.08.2024 and for submission of Resolution Plan was on 12.10.2024.

(g) The Applicant submitted that the Company has the lands and assets, which is given below: -

- (i) Deed No. I-2873 dated 16.03.2010 registered in book I, CD Volume No 8, Pages from 4336 to 4351, situated at Mouza-Haldia being Plot Nos. 478 & 479 under L.R. Khatian No. 98.
- (ii) Deed No. I-9974 dated 23.12.2009 registered in Book I, CD Volume No. 28, Pages from 2401 to 2052, Mouza-Debipur, Dist. Burdwan, P.S. Kulti & Chowk, ADSRO Asansol, land measuring 0.39 acres.
- (iii) Deed No. I-7874 dated 23.09.2009 Registered in Book I, CD Volume No. 22, Pages from 4444 to 4408, Mouza-Debipur, Dist.
- (iv) Deed 1-2504 dated 09.01.2010 Registered CD Volume No. 7, Pages from 4026 to 4037 Halda, Diss. Burdwan, P.S. Salanpur & Chowk, ADSRO Asansol land measuring 0.30 acres.



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- (v) Deed No. 1-2871 dated 16.03.2010 Registered in Book I, CD Volume No. 8. Pages from 4301 to 4318, Mouza-Halda, Dist. Burdwan P.S. Salanpur & Chowk, ADSRO Asansol, land measuring 0.13 acres or 13 decimals.
- (vi) Deed No. 1-9973 dated 23.12.2009 Registered in Book I, CD Volume No. 28. Pages from 2020 to 2040, Mouza-Debipur. Dist. Burdwan P.S. Kulti, ADSRO Asansol, land measuring 71.50 decimal.
- (vii) Deed No. 1-8183 dated 13.10.2009 Registered in Book 1, CD Volume No. 23, Pages from 3453 to 3467, Mouza-Debipur, Dist. Burdwan, P.S. Kulti, ADSRO Asansol, land measuring 53 decimals.
- (h) It is submitted that the Applicant had received total six EOI's as on 22.07.2024, 23.07.2024, 24.07.2024, 25.07.2024, 10.08.2024 and 16.08.2024 from the Bhubnesh Commercial Pvt. Ltd, Bhumireddy Gari Mohan Reddy, Kundan Group, Orissa Metaliks Pvt. Ltd., Sivachaitanya Saikam and City Alloy s Pvt. Ltd.
- (i) It is further submitted that the last date for submission of resolution plan was on 12.10.2024, where two potential resolution applicants has requested for extension and go for liquidation and are not willing to grant any further extension timeline for submission of resolution plan during the CIRP. Hence, CoC members decided to go for liquidation of the CD.



(j) The CIRP was commenced on 22.05.2024 and 180 days of CIRP was expired on 18.11.2024. Since the Applicant had received no resolution plan, the CoC in their 6th meeting held on 15.11.2024 had passed a resolution for the liquidation of the corporate debtor and recommended the name of Mr. Vijender Sharma, Insolvency Professional bearing IBBI Registration No. 1881/IPA-003/IP-N00003/2016-2017/10022 as the liquidator.

(k) As no resolution plan was received during the course of CIRP, the following resolution was passed in the CoC meeting with 100% votes cast in favour, which is reproduced as under: -

“Resolved that as per Sec 33 (2) of the IBC Act, 2016, the CoC members hereby decide that an application is to be filed before Hon'ble NCLT for liquidation of the corporate debtor Ambay Coke Industries Private Limited (in CIRP) and Mr. Vijender Sharma, Insolvency Professional bearing IBBI Registration No. IBBI/IPA-003/IP-N00003/2016-2017/10022 is recommended as the liquidator.”

5. Hence, the rival contentions were noted.

6. **Analysis and Findings: -**

(a) We have considered the submission made by the Ld. Counsel and perused the record.



(b) 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.

(c) Hence, we do find merit in the prayers made in **IA(IBC)(LIQ.)/38(KB)2024**, and deem it fit to Order liquidation of the Corporate Debtor.

7. This Bench, therefore, hereby Order(s) as follows: -

- a. Prayers as sought for in **IA(IBC)(LIQ.)/38(KB)2024** filed by RP, is allowed and **Ambay Coke Industries Private Limited**, the Corporate Debtor is Ordered to be liquidated in terms of section 33(1) of the Code;
- b. **Mr. Sandip Kumar Kejriwal** having registration no. **IBBI/IPA-002/IP-N00236/2017-18/10687**, email ID: sandipkej2@mail.com, Mobile No. **9831074124**, 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.
- d. Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in liquidation.



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- 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.
8. The application bearing **IA(IBC)(LIQ.)/38(KB)2024** shall stand **disposed of** in accordance with the above directions.



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9. List the main **C.P. (IB)/164(KB)2022** for reporting progress on **07.03.2025**.
 10. 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.
 11. Urgent certified copies of this Order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.
 12. File be consigned to records.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on: 03rd of December, 2024.

Ar. [steno]