

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

IA No.- 11/2024 and IA-1497/2024

In

CP (IB) – 413(PB)/2019

**Order under Section 54(1) of the Insolvency and Bankruptcy Code, 2016
Read with Regulation 45 of the IBBI (Liquidation Process) Regulations,
2016**

IN THE MATTER OF:

M/s Reliance Commercial Finance Limited. Financial Creditor

Versus

M/s Rosewood Trexim Private Limited Corporate Debtor

AND IN THE MATTER OF IA No. 11/2024

Mr. Anshuman Kaushik,

Liquidator of M/s Rosewood Trexim Pvt. LTD Applicant

Versus

1. M/s Reliance Commercial Finance Limited

2. M/s HDB Financial Services Limited

3. Mr. Harsh Vardahan Bagaria

4. Mr. Santosh Bagaria Respondents

AND IN THE MATTER OF IA No. 1497/2024

Mr. Anshuman Kaushik,

Liquidator of M/s Rosewood Trexim Pvt. LTD Applicant

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT**

**SHRI AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)**

APPEARANCES:

For the Liquidator: Adv. Gautam Singhal and Adv. Rajat Chaudhary

ORDER

IA-11/2024

1. This Application has been filed by the Liquidator of M/s. Rosewood Trexim Private Limited i.e. Corporate Debtor before this Adjudicating Authority under Section 54 of the Insolvency and Bankruptcy Code, 2016 ("IBC" or "Code"), for seeking the following reliefs:

- A.** *Allow the present application*
- B.** *Pass an order for dissolution of the Corporate Debtor in terms of the provisions of Section 54 of Insolvency and Bankruptcy Code, 2016 read with Regulation 45(3)(b) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016*
- C.** *Direct M/s Reliance Commercial Finance Limited to make contribution towards the liquidation cost in proportion to its share.*

And / Or

Pass any other or further directions as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

IA-1497/2024

2. IA-1497/2024 is the final report filed by Liquidator as per Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 with the following prayers:

a) Take the Final Report of the Corporate Debtor as per Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process), Regulations, 2016 filed on behalf of Liquidator on record.

And / Or

b) Pass such necessary orders as may be deemed fit in the matter by Hon'ble Adjudicating Authority.

3. The Corporate Debtor namely M/s. Rosewood Trexim Private Limited was incorporated on 31.08.2007 as a Company having CIN: U51909DL2007PTC167571 under the erstwhile Companies Act, 1956 with the Registrar of Companies, NCT of Delhi and Haryana. The Corporate Debtor was engaged in the business of offering underground construction work including providing Horizontal Directional Drilling, installation of pipes and wires, etc. prior to the commencement of the Corporate Insolvency Resolution Process.

Brief Background of the Case

4. Financial Creditor i.e. Reliance Commercial Finance Limited had filed an application under Section 7 of the Code, bearing number IB-413/(PB)/2019, for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Adjudicating Authority on 10.10.2019 and CIRP was initiated against the Corporate Debtor and Mr. Shailendra Singh was appointed as the IRP.

5. It is submitted that the IRP sent an email to the Ex-Management of CD intimating them about the commencement of CIRP and appointment of

IRP and also sought all the necessary documents, records and information of the CD from Ex-Directors. IRP also visited the registered office of the CD located at "C-1108, G.F., Kalkaji, New Delhi - 110019". The same was locked. Thereafter, Ex- Directors informed the IRP that the CD was operating at "25, First Floor, Charmwood Plaza, Charmwood Village, Surajkund Road, Faridabad Haryana-121009". They sought time to provide information.

6. On 13.10.2019, public announcement in Form A was published. In response to same the IRP received one claim from M/s Reliance Commercial Finance Limited under the category of Secured Financial Creditor. The report certifying the constitution of the Committee of Creditors (CoC) consisting of a sole member was filed before this Adjudicating Authority, the details of which are given below:

No.	Name of Creditors	Amount claimed	Amount of Claim Admitted (In INR)	Voting Share %
1.	M/s Reliance Commercial Finance Limited (Secured Financial Creditor)	2,16,18,013	1,54,25,121	100%

7. On 24.10.2019, the IRP visited the premises located at "25, First Floor, Charmwood Plaza, Charmwood Village, Surajkund Road, Faridabad, Haryana-121009 in order to take possession of the assets and books of accounts of CD. However, after reaching the said premises the IRP discovered that all the assets and documents stored therein were in respect of another company i.e. **M/s Rosewood Projects Private Limited (Sister Concern of CD)**. In the 2nd CoC meeting dated 03.12.2019 the CoC resolved to confirm the appointment of IRP as RP with 100% voting, the same was also confirmed by this Adjudicating Authority.

8. It is submitted that in the 3rd CoC meeting held on 26.12.2019 the Ex-Directors of CD informed the RP that hypothecated machineries are lying in North-eastern region of India and sought time to provide details. On 10.01.2020 Ex-Directors vide email provided contact details of persons in whose possession the hypothecated machineries were lying. However, no agreement or document was provided to establish any business transaction between the CD and those persons.
9. The RP received an email on 01.02.2020 from the Ex-Director intimating that HDFC Bank Ltd has taken physical possession of the premises located at "25, First Floor, Charmwood Plaza, Charmwood Village, Surajkund Road, Faridabad, Haryana-121009" where necessary documents relating to the CD were claimed to be lying. The RP filed an application bearing IA No. 1784/2020 against HDFC Bank Ltd seeking de-sealing of the office for the purpose taking possession of documents and assets of the CD.
10. It is submitted that in the 5th CoC meeting the CoC discussed to initiate CIRP of M/s Rosewood Projects Private Limited and in the 6th CoC meeting dated 19.03.2020 the CoC took a decision that at this stage publication of Expression of Interest (EoI) shall not be fruitful as complete financial information about the CD is not available and given the peculiar facts of the case wherein the sister concern is yet to be brought within the purview of CIRP. Further publication of Form-G was also deferred due to non-availability of documents and records of CD.
11. In the 9th CoC meeting dated 23.12.2020 the RP informed the CoC about the steps taken to establish communication with persons in whose possession the hypothecated machineries were lying. The RP sent legal notices to persons seeking information as to the exact location of the machineries of the CD. However, no reply was received.

12. It is submitted that the RP came to know from the reply filed by HDFC Bank Limited to IA No. 1784/2020 that the premises bearing No. 25, Charmwood Plaza, Charmwood Village, Faridabad is auctioned to a third party by HDFC Ltd under the provisions of SARFAESI Act, 2002. This Adjudicating Authority vide order dated 16.07.2021 directed HDFC Bank Ltd to provide the necessary copies of documents and to also allow inspection of the records by the RP at a mutually convenient time and date at the cost of the RP. RP visited the premises and found that the documents of the Corporate Debtor were mixed with the files of other company and the combined files were voluminous in number contained about 78 cartons in an unorganized and haphazard manner.
13. It is submitted that on 23.06.2022 the RP sent an email to the Sole Financial Creditor along with the legal opinion to decide the further course of the action. Relevant extract of legal opinion of his advocate dated 23.06.2022 is extracted below:

The statutory period for conducting the CIRP proceedings had already expired on 27.01.2021 including the extension and exclusion granted by Hon'ble NCLT and Hon'ble NCLAT. There are no business operations in the CD since long. The assets of the CD could not be located due to non-cooperation by the ex-management. Even the complete records, documents and information was not supplied to the RP. There are no workman or employees working for the CD as on CIRP commencement date. Though the RP was continuously doing the needful as permissible under the code, still the matter could not be resolved under CIRP and due to lapse of long time it is desirable that we should take appropriate necessary steps in the best interest of all.

Hence, in my opinion no useful purpose would be achieved by continuing with the CIRP process of the CD in view of passage of time due to pendency of various applications and appeal. The RP may file an application under Section 33 of IBC, 2016 seeking initiation of liquidation proceedings of the CD and appointment of the liquidator. The appeal filed before the Hon'ble NCLAT, New Delhi may subsequently be withdrawn in view of filing of the liquidation application under Section 33 IBC, 2016."

On 07.07.2022 the RP received an email from the Sole CoC member wherein and whereby it approved to proceed for liquidation of the Corporate Debtor. This Adjudicating Authority vide its order dated 30.01.2023 allowed the application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 for Liquidation of the Corporate Debtor i.e. M/s Rosewood Trexim Private Limited and appointed applicant as the liquidator.

14. In compliance with the Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 the Liquidator issued a public announcement for:
 - a. Intimating the commencement of Liquidation against M/s Rosewood Trexim Pvt. Ltd
 - b. Calling upon the creditors of the CD to submit their claims along with the proof. The said announcement was published in the newspapers Jansapta (Hindi) and Financial Express (English) on 06.02.2023, the last date for submission of claim was 08.03.2023.
15. Pursuant to the publication of the Form B, the applicant received one claim from Financial Creditor Namely M/s Reliance Commercial Finance Limited on 04/03/2023 for an amount of Rs. 3,47,53,803/- and the same was provisionally admitted. The applicant constituted the Stakeholders' Consultation Committee with the financial creditor namely M/s Reliance Commercial Finance Limited

16. In accordance with Regulation 41 of the IBBI (Liquidation Process) Regulations, 2016 on 24.02.2023 the liquidator opened the bank account with AXIS Bank in the name of CD under liquidation.
17. On 09.03.2023 one more claim from other Financial Creditor namely M/s HDB Financial Services Limited claiming an amount of Rs. 3,35,02,260/- was received and the same was also provisionally admitted. The applicant then re-constituted the Stakeholder's Consultation Committee with both the FCs. The details of the members of SCC along with their voting rights are given below:

S.No	Name	Category	Claim Amount Admitted	Voting %
1.	Reliance Commercial Finance Limited	Financial Creditor	3,47,53,083/-	50.92
2.	HDB Financial Service Limited	Financial Creditor	3,35,02,360/-	49.08
		Total	6,82,56,063/-	100%

18. It is submitted that the 1st Stakeholder Consultation Committee (SCC) meeting was held on 18th February, 2023 in which the applicant apprised that Mr. Harsh Vardhan Bageria, the suspended director had informed

that the machineries were assigned for carrying out Rail Tel HDD work" to Mr. Moshon, Mis K.Morung & Sons Marine Lane, Mr. Nabam Tagam, M/s Assam Arunachal Agency and Mr. Tenu Wahling. The Erstwhile Resolution Professional also wrote letters dated 26 Oct 2020 & Jan 11, 2021. After the appointment, the applicant has also sent letter dated 10th Feb 2023 to the above mentioned three persons, however he didn't receive appropriate response. Therefore, in these circumstances it was discussed that the recovery of the machineries as alleged by the Suspended Director is doubtful. Further the applicant discussed the need of taking handover of 78 cartons of files from HDFC Bank counsel and bearing of costs for storing and sorting them.

19. It is submitted that in the 3rd SCC meeting applicant had informed and shared the details of immediate requirement of funds for liquidation process as urgently required for hiring professionals which the SCC members were required to contribute proportionately as per their claims, however, the members have not provided any confirmation so far. Further, it was also decided that since the suspended board of directors had not been co-operating and had not been traceable, the financial creditors would provide all support for making available any information to the applicant. However, no such cooperation was provided by the Financial Creditors.
20. It is submitted that in the 5th SCC meeting dated 03.10.2023 the applicant informed the SCC members that in the absence of any commitment from SCC members to clear the liquidation cost, it is very difficult to carry the liquidation process. The details of liquidation costs till date and share of contribution of the financial creditors towards liquidation costs as under was also placed before the SCC which was approved by the members of SCC.
21. In the 6th SCC meeting dated 02.03.2024 the applicant informed that M/s HDB Financial Services Ltd has provided its share of contribution for

liquidation costs for Rs.407,265/- on 24.02.2024 by Demand Draft in the name of Liquidator. However, M/s Reliance Commercial Finance Limited has still not provided its contribution towards the liquidation cost. In the meeting the applicant also requested the members to discuss the future course of liquidation process. The applicant informed the members that additional funds and time may be required to trace the assets and promoters.

22. In the 6th SCC meeting the SCC members expressed their inability to contribute further for liquidation expenses and decided to dissolve the company and move an application for dissolution of the CD before the Adjudicating Authority. It was also decided that the existing records and documents lying with the Liquidator be handed over to SCC members. Further as no information with respect to CD including location of assets could be found, it was agreed that the SCC members will take assignment of assets in proportion to their claim ratio, when assets would be located and realized as per applicable legal provisions. The entire costs in this process would be borne by SCC members in ratio of their claim ratio. They would intimate the liquidator at the end of this process. After detailed discussion and deliberation, the members of SCC approved that the CD be dissolved and passed the following resolution:

“Resolved That ROSEWOOD TREXIM PVT LIMITED be dissolved as per decision during the meeting, and Liquidator be authorized to take all required steps to dissolve the company”

23. During the Liquidation Process, the Liquidator is not able to complete the compliances of the Corporate Debtor on account of the following:
- a. Ex-Directors of the Corporate Debtor were absconding and not traceable.

- b. The Corporate Debtor had no business operations from the year 2019.
 - c. Company's records and statutory documents: HDFC Limited had taken possession of all records, documents after attaching office of sister concern (Rosewood Projects Private Limited) of the Corporate Debtor.
 - d. No records/documents except for financial statements upto 31.03.2017 pertaining to Corporate Debtor were available.
 - e. The assets/inventory of the Corporate Debtor are not traceable.
 - f. Ex-Directors of the Corporate Debtor were absconding and not traceable.
 - g. Details of login credential or registration on Income Tax Portal etc either not available or have expired.
24. In compliance with Regulation 45 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 the Final Report along with copy of Audited receipt and payment account of the Corporate Debtor and Form H has been filed as a part of IA-1497/2024. Further, the account of the Corporate Debtor with Punjab National Bank has been closed. However, the applicant submits that despite repeated reminders and requests, Central Bank of India has failed to close the bank account till the date of filing the present application. Further the liquidator also filed its Preliminary Report along with the 1st, 2nd and 3rd progress report with this adjudicating authority.
25. Section 54 of the Code read as follows: -

“54(1) Where the assets of the Corporate Debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.

(2) The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.”

26. Upon reading of the above provision, the ultimate objective of the code is either to resolve the issue by way of approval of Resolution Plan or to liquidate and then dissolve the CD, as expeditiously as possible. In the instant case, there are no realizable inventory/ assets of the CD which despite several efforts could not be traced and there is no realization made in the liquidation process of the Corporate Debtor and therefore the applicant is unable to make any distribution of sale proceeds as per Section 53 of the Insolvency and Bankruptcy Code, 2016 and on 15.01.2024 the applicant liquidator has closed the liquidation account of the CD. As regards pending dues of the liquidator, we have on 11.06.2024 recorded as follows:

IA-2939/2023

It is stated by Mr. Gautam Singhal, Ld. Counsel for the Liquidator that he has got the email from the SCC Members that the pending dues of the liquidator will be settled.

Recording this, we close this IA-2939/2023.

Accordingly, **IA-2939/2023** stands **disposed of**.

27. The Present Interlocutory Application appears to be bonafide and in the interest of the Corporate Debtor and to enable the Applicant to perform his duties under the Code, it is prudent to dissolve the Corporate Debtor, and it is ordered accordingly.

28. ORDER

Hence, IA-11/2024 stands allowed and the Corporate Debtor is ordered to be dissolved.

29. The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, NCT of Delhi and Haryana, immediately and, in any case, within fourteen days of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.

30. The Liquidator shall stand discharged from his responsibilities, subject to procedural compliances. The Corporate Debtor stands dissolved from the date of this Order.

31. IA-11/2024 filed of dissolution of CD is allowed and IA-1497/2024 (Final Report Filed by liquidator) is taken on record.

32. IA-11/2024, IA-1497/2024 and IB-413(PB)/2019 shall stand disposed of in accordance with the above directions.

33. The Registry is directed to send copies of this order to all the parties for information, for taking necessary steps and to the Insolvency and Bankruptcy Board of India (IBBI) for their record.
34. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
35. File be consigned to the record storage current.

Sd/-
RAMALINGAM SUDHAKAR
(PRESIDENT)

Sd/-
AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)