

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.302

IA/1360(AHM)2023 in CP(IB)/6(AHM)2021

Order under Section 33 & 34(1) IBC

IN THE MATTER OF:

VIKASH G JAIN RP OF BAID INDUSTRIES PRIVATE
LIMITED

.....Applicant

VS

ASHOK KUMAR BAID & Ors.

.....Respondent

Order delivered on: 19/04/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)
(JUDICIAL)

Sd/-

CHITRA HANKARE
MEMBER

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT No. 2**

**IA 1360/NCLT/AHM/2023
in
CP (IB) 06/NCLT/AHM/2021**

[An application filed under section 33 and 34(1) of the
Insolvency and Bankruptcy Code, 2016 for liquidation of the
Corporate Debtor]

In the matter of:

Vikash G. Jain

RP of Baid Industries Private Limited Applicant

Versus

Ashok Kumar Baid and Another Respondents

In the matter of:

Meliora Asset Reconstruction
Company Limited

.... Applicant/
Financial Creditor

Versus

Baid Industries Private Limited Respondent

MEMO OF PARTIES

Vikas Gautamchand Jain
[RP of Baid Industries Private
Limited]
Reg. No. IBBI/IPA-001/IP-P00354/
2017-2018/10612
Having office at:

Opp. Orient Club
Near Gujarat College, Ellisbridge
Ahmedabad-380 006
Email:baid.cirp@gmail.com

.... Applicant

Versus

1 Ashok Kumar Baid
Having Address at:
2/4582, 2nd Floor
Sanrampura Main Road
Surat, Gujarat

2 Hemant Kumar Baid
Having Address at:
2/4582, 2nd Floor
Sanrampura Main Road
Surat, Gujarat.

.... Respondents

Order pronounced on 19.04.2024

Coram:

Mrs. Chitra Hankare, Member (Judicial)

Mr. Velamur G Venkata Chalapathy, Member (Technical)

Appearance:

For the Applicant : Mr. Nipun Singhvi, Advocate a.w. Mr.
Rahul Bhavsar, Advocate.

For the Respondents : None

JUDGMENT

1. The present application is filed by Mr. Vikash Gautamchand Jain, Resolution Professional (RP) of M/s. Baid Industries

Private Limited (Corporate Debtor), under Sections 33 and 34(1) of the Insolvency and Bankruptcy Code, 2016 (IB Code) seeking an order of Liquidation of the Corporate Debtor and to appoint Mr. Jigar Tarunkumar Bhatt, having Registration No. IBBI/IPA-001/IPP0001917/2019-2020/13005, as Liquidator of the Corporate Debtor.

2. The brief facts of the case are summarized hereunder :
 - i. The Financial Creditor i.e. Meliora Asset Reconstruction Company Limited had filed an application under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP'), against the Corporate Debtor which was admitted vide order dated 07.12.2022 and Mr. Murali Prasad Nalam was appointed as Interim Resolution Professional (hereinafter referred to as "IRP").
 - ii. The IRP made a public announcement in FORM- A on 10.12.2022 inviting proof of claims from the creditors of the Corporate Debtor.
 - iii. The IRP received amongst other, two claims from Financial Creditors i.e. State Bank of India, SAMB, Ahmedabad and Meliora Asset Reconstruction Company Limited,

Visakhapatnam and accordingly constituted a Committee of Creditors (hereinafter referred to as the “CoC”) consisting of two Secured financial creditors i.e. State Bank of India and Meliora Asset Reconstruction Company Limited having 74.47% and 25.53% voting share respectively. Thereafter, the RP re-constituted the CoC consisting and added One Unsecured Financial Creditors i.e. Dhanvirdhi Financial Consultants Pvt. Ltd. with revised voting share.

- iv. The 1st CoC meeting was held on 05.01.2023 wherein IRP informed to CoC that the Gujarat State VAT, an Operational Creditor is classified as secured creditor.
- v. The 2nd CoC meeting was held on 24.01.2023 wherein it was resolved that IRP Mr. Murali Prasad Nalam was to be replaced by RP Mr. Vikash G Jain and the same was confirmed by this Tribunal vide its order dated 31.03.2023.
- vi. It is submitted by the Applicant that the Form – G was issued two times and the last Form –G was issued on 14.04.2023. In response to the issuance of Form –G, the three Resolution Plans was received by the RP and the same was placed before the CoC which was discussed and

dissented by the CoC with 98.62 % voting with a view that since no technically and economically viable EoI was received therefore, the CoC passed the resolution for liquidation of the CD with 98.62 % voting. The Plan value submitted by both the applicants which was rejected by COC has not been submitted by RP.

- vii. The applicant /RP filed the Compliance Certificate in Form – H wherein it is mentioned that the total fair value and liquidation value are Rs. 36,35,87,308/- and Rs. 23,64,73,006/- respectively. It is also mentioned in Form – H that at present 2(two) IAs regarding preferential and undervalued transactions are pending in this matter.
- viii. It is submitted by the Applicant/RP that 330 days of CIRP period has expired on 02.11.2023 and the present application is filed on 27.11.2023 therefore the applicant prayed to this Tribunal for condonation of delay in filling the present application due to unavoidable circumstances.
- ix. It is further submitted by the applicant that the CoC resolved to appoint Mr. Jigar Tarunkumar Bhatt as liquidator of the Corporate Debtor replacing the RP. The

written consent filed by the proposed liquidator along with confirmation received from SBI.

3. Considering the documents and submission made, since the COC in its commercial wisdom has decided to take the Corporate Debtor in liquidation, we are of the opinion that the decision of the COC should not interfere. There is still sufficient assets available with the corporate debtor which can be disposed off to pay the liabilities and pursue the preferential transactions identified and filed before the Tribunal. The present application seeking liquidation of the Corporate Debtor M/s Baid Industries Pvt. Ltd., in the manner laid down in Chapter III of Part II of the Code. Hence, we hereby order for liquidation of the Corporate Debtor. The 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. In terms of the above circular of IBBI, we hereby appoint Mr. JayKishan Rameshwarlal Rathi, having Registration No. IBBI/IPA-001/IP-P 02710/2022-2023/14166 as per the panel suggested by IBBI

for this Bench for the period January to 30th June, 2024 appointed as a Liquidator of the Corporate Debtor i.e. M/s. Baid Industries Pvt. Ltd.

4. Hence, we passed the following order:-

ORDER

- i. The Application is allowed.
- ii. We hereby order for liquidation of the Corporate Debtor - M/s. Baid Industries Pvt. Ltd. in terms of the provisions of section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.
- iii. The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- iv. As per section 34(4)(b) of the Code, we hereby appoint Mr. JayKishan Rameshwarlal Rathi, having Registration No. IBBI/IPA-001/IP-P 02710/2022-2023/14166, Email Id JAYKISHAN.RATHI@GMAIL.COM is hereby appointed as a Liquidator of the Corporate Debtor i.e. M/s. Baid Industries Pvt. Ltd. The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- v. The liquidator to issue a public announcement stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- vi. The liquidator is 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.

- vii. The liquidator to follow up and continue to investigate the financial affairs of the corporate debtor to determine any undervalued and preferential transactions, etc. in terms of the provisions of Section 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- viii. This order is 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.
- ix. The Liquidator is to 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.
- x. Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in subsection (5) of section 33 of the Code.
- xi. It is further directed that the Personnel of the Corporate Debtor extend all assistance and cooperation to the Liquidator as may be required in liquidating the affairs of the Company

in discharging his function as specified under Section 35 of Insolvency & Bankruptcy Code, 2016.

- xii. The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- xiii. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
- xiv. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.
- xv. In terms of the above, the present application IA No. 1360 of 2023 in CP(IB) No. 06 of 2021 is disposed off.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

R.S. / LRA