

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

IA-25/2024 IN CP(IB)-1029(MB)/2022

Under Section 33 of the Insolvency &
Bankruptcy Code, 2016.

Mr. Amit Vijay Karia,

... Resolution Professional/Applicant

In the matter of

**Piramal Capital & Housing Finance
Limited**

... Financial Creditors

Vs.

Rite Developers Private Limited

... Corporate Debtor

Order pronounced on: 29.04.2024

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Mr. Amir Arsiwala, Advocate.

ORDER

1. This is an application filed by Mr. Amit Vijay Karia, Resolution Professional of the Corporate Debtor on 02.04.2024, seeking liquidation of **Rite Developers Private Limited** under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).
2. **Brief facts of the Application are as follows:**
 - 2.1. This Tribunal vide an order dated 25.08.2023 in Company Petition bearing CP(IB)-1029(MB)/2022 filed under Section 7 of the IBC, 2016, by the Financial Creditor viz. Piramal Capital & Housing Finance Limited (hereinafter referred to as the “Financial Creditor”) admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against Rite Developers Private Limited [CIN: U45201MH2002PTC134760] (hereinafter referred to as the “Corporate Debtor”). The applicant viz. Mr. Amit Vijay Karia was appointed as Interim Resolution Professional by this Tribunal vide same order. He was later appointed as Resolution Professional (RP) in the first CoC meeting held on 17.11.2023 as per the Code.
 - 2.2. The Applicant submits that he had issued public announcement in Form-A on 27.08.2023 for inviting claims. The Ld. Counsel submits that before the constitution of the Committee of Creditors (CoC), one Mr. Pratik Jiyani, member of the Suspended Board of Directors of the Corporate Debtor preferred an appeal No.1198/2023 before the Hon’ble NCLAT challenging the admission order dated 25.08.2023. The Hon’ble NCLAT

by an order dated 14.09.2023 directed the Applicant not to constitute the CoC till the next date of hearing. Thereafter, the stay was continued from 14.09.2023 to 06.11.2023. Pursuant to order dated 06.11.2023 passed by the Hon'ble NCLAT, the stay was vacated, and the Applicant herein proceeded with the resumption of the CIRP of the Corporate Debtor. Thereafter, the First CoC meeting was held on 17.11.2023. In the Second CoC meeting held on 08.01.2024, it was approved to publish Form G inviting Expression of Interest from prospective resolution applicants. It was also decided to move an Application for seeking exclusion of time of 54 days, which were lost due to the stay imposed by the Hon'ble NCLAT.

2.3. In the Third CoC meeting held on 14.03.2024, the Applicant apprised the status of the EoI received, and informed that two EoI were originally received in relation to the Corporate Debtor. One of the applicants being, 'One City Infrastructure Private Limited' withdrew from the process on 26.02.2024 and consequently, the provisional list of Prospective Resolution Applicants was issued by the Applicant on 04.03.2024 with only one PRA. As no resolution plan was received from the said PRA, the applicant decided to opt for Liquidation of the Corporate Debtor. The CoC with 99.69% voting approved resolution for liquidation and has also recommended the name of the Liquidator. Accordingly, the Applicant filed this Application for approval of Liquidation of the Corporate Debtor.

- 2.4. The Applicant submits that the CoC proposed Mr. Nilesh Rajendra Kothari, an Insolvency Professional, having IBBI Registration Number : IBBI/IPA-002/IP-N01225/2022-2023/14132 to act as Liquidator of the Corporate Debtor during the process.
- 2.5. The proposed Liquidator has given his Letter of Consent to act as Liquidator of the Corporate Debtor.
3. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
- a. The Corporate Debtor viz. Rite Developers Private Limited [CIN: U45201MH2002PTC134760] is 'under liquidation' w.e.f. the date of the order.
 - b. Mr. Nilesh Rajendra Kothari, an Insolvency Professional, having IBBI Registration Number: IBBI/IPA-002/IP-N01225/2022-2023/14132, is hereby appointed as 'Liquidator' to conduct liquidation process of Rite Developers Private Limited as provided under Section 34(1) of the Code.
 - c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
 - d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India

- (Liquidation Process) Regulations, 2016. The Liquidator to send this order to the RoC under which this Company has been registered.
- e. The Liquidator appointed under section 34(1) of the Code, will have all powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator.
 - f. The Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.
 - g. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - h. On having liquidation process initiated, 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
 - i. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s. 33(5) of the Code.

- j. This liquidation order u/s 33(7) 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.
 - k. Moratorium declared vide Order dated 25.08.2023 in CP(IB)-1029(MB)/2022, henceforth ceased to exist.
 - l. The Liquidator shall submit the progress report of liquidation periodically.
4. With the above directions, the IA-25/2024 in CP(IB)-1029(MB)/2022 filed u/s 33 by the Applicant is hereby **allowed** and **disposed of**.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)

29.04.2024/-