

**THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH  
AT NEW DELHI**

**C.A. 1645 (PB) /2019**

**IN**

**Company Petition No. (IB) – 486 (PB) /2018**

In the matter of:

Mr. Alok Kaushik

Applicant/Resolution Professional

AND

In the matter of:

M/s Praveer Constructions Private Limited

Corporate Debtor

*Under Section 33 of the Insolvency and Bankruptcy Code, 2016  
for liquidation of the corporate debtor*

***Judgment delivered on: 27.09.2019***

**Coram:**

**MR. CHIEF JUSTICE (RTD.) M. M. KUMAR HON'BLE PRESIDENT**

**MR. S. K. MOHAPATRA, MEMBER (TECHNICAL)**

For the Petitioner: Mr. Rakesh Kumar, Ms. Chetna Bisht, Advocates  
Mr. Alok Kaushik, Resolution Professional.



## **ORDER**

**S. K. Mohapatra, Member**

1. This is an application filed by Mr. Alok Kaushik the Resolution Professional under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the corporate debtor, M/s Praveer Constructions Private Limited.
2. The facts in brief are that the one of the financial creditors, Ms. Usha Devi had filed an application under Section 7 of the Code bearing number IB-486(PB)/2018 for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this Tribunal on 15.10.2018 initiating Corporate Insolvency Resolution Process against the corporate debtor M/s Praveer Constructions Private Limited and there in appointed Mr. Alok Kaushik, as the Interim Resolution Professional.
3. Thereafter, in terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP



Regulations) the Interim Resolution Professional made paper publication inviting claims from the creditors of the corporate debtor. Consequently, in compliance of Section 21 of the Code read with Regulation 17 of the CIRP Regulations, Committee of Creditors was constituted with six members who are individual investors being commercial space allottees.

4. It is pertinent to note here that the Resolution Professional has filed an application bearing number CA 603 (PB)/2019 under Section 66 of the Code pertaining to irregular transactions undertaken by the corporate debtors and others. Needless to say, that liquidator appointed herein shall take necessary follow-up actions in the said company application during the liquidation process.
5. The Resolution Professional has invited EOIs from prospective Resolution Applicants in Form G published on 09-02-2019. However, no response was received from any prospective Resolution Applicant.
6. Subsequently the Resolution Professional again invited EOIs by re-issuing Form G with revised eligibility criteria as approved by the COC. The revised Form G was published



on 04.05.2019, in response to which three EOIs were received which were found to be eligible as per the criteria fixed by the CoC. Besides, none of these resolution applicants have submitted their resolution plans by the last date which was 04.07.2019.

7. It is pertinent to mention here that the initial 180 days of CIRP period was extended by another 90 days vide order dated 13.05.2019. Besides 45 days were also excluded from the CIR Period on account of time spent on liquidation vide order dated 22.02.2019.
8. In the absence of any resolution plan, the CoC in their seventh meeting held on 21.08.2019 decided by a voting share of 79.32% to liquidate the corporate debtor. The Resolution Professional has proposed himself to be the Liquidator in the Liquidation Process. The CoC in the same meeting has approved the appointment of the Resolution Professional as the liquidator.
9. It is pertinent to refer to the statutory provisions provided in Section 33 (1) (a) of the Code which mandates that *“where the Adjudicating Authority before the expiry of the maximum period permitted for completion of the*



*corporation insolvency resolution process under Section 12 does not receive a resolution plan under sub-section (6) of Section 30, it shall pass an order requiring the corporate debtor to be liquidated in the manner as laid down in the Chapter.”*

- 10.** Therefore, upon failure of resolution process there being no resolution plan and on completion of the statutory CIRP period; Liquidation has to follow. Adherence to statutory requirement has to be in toto. When the language of the Code is clear and explicit the Adjudicating Authority must give effect to it whatever may be the consequences.
- 11.** In the factual background and in the absence of any resolution plan and for want of time beyond statutory CIRP period; there is no other alternative left but to order in conformity with the majority decision of the Committee of Creditors with 79.32% voting share, *for liquidation of the corporate debtor under Section 33 of the Code.*
- 12.** In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s Praveer Constructions Private Limited in the manner laid down in



the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

- a.** Mr. Alok Kaushik with Registration No. IBBI/ IPA-002 / IP-N00253 / 2017-18 / 10767, is appointed as Liquidator in terms of Section 34(1) of the Code.
- b.** Mr. Alok Kaushik, is directed to issue 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;
- c.** The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d.** The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of



the Insolvency and Bankruptcy Code shall commence;

- e.** The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.
- f.** The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.
- g.** The liquidator shall also follow up the pending applications including CA 603 (PB)/2019 for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h.** 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.

- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.
- j. C.A. 1645 (PB) /2019 filed in IB 486(PB)/2018 is disposed of in the aforesaid terms.

Sd/-

(M.M. KUMAR)  
PRESIDENT

27.09.2019

Sd/-

(S. K. MOHAPATRA)  
MEMBER (T)