

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT II**

**IA. No. 4180/2023**

**In  
CP(IB)No.3707/MB/CII/2019**

*Application filed under section 33(2) of Insolvency  
and Bankruptcy Code, 2016.*

**AAA Insolvency Professionals LLP, RP of  
M/s S. Kumars Limited**

**...Applicant**

*In the matter of*

**Edelweiss Asset Reconstruction Company  
Limited**

**...Financial Creditor**

**V/s**

**M/s S. Kumars Limited**

**...Corporate Debtor**

**Order Pronounced on: 25.07.2024**

***Coram:***

**Anil Raj Chellan  
Member Technical**

**Kuldip Kumar Kareer  
Member Judicial**

***Appearances:***

**For the Applicant**

**: Adv. Sandeep Vij a/w Adv. Aishwarya**

**ORDER**

***Per: Coram***

1. It is an application filed u/s 33(2) of the Insolvency and Bankruptcy Code, 2016 (Code) by AAA Insolvency Professionals LLP through its authorized partner Mr. Ankit Goel, Resolution Professional (RP) of Greenleaf Commerce Pvt Ltd seeking liquidation order based on the resolution passed by the CoC **in its 6<sup>th</sup> meeting held 10.07.2023.**
2. On perusal of this application, it appears that CP No. (IB)-3707(MB)/2019 was admitted by this Tribunal on 18.11.2022 and Mr. Anjan Bhattacharya was appointed as Interim Resolution Professional (IRP). Thereafter, IRP in compliance with section 13,15 and other applicable sections of the Code, published Form A issuing public announcement dated 20.11.2022 inviting claims from the Creditors of the Corporate Debtor. Subsequently, the Committee of Creditors ('CoC') was constituted on 09.12.2022 by the IRP and a report certifying the constitution of CoC was filed before this Tribunal, initially consisting of only one financial creditor. However, after filing the report, the applicant received additional claims from various creditors, including financial and operational creditors, as well as workmen and employees of the Corporate Debtor. Consequently, the CoC was reconstituted by the RP/ Applicant in accordance with the provisions of the Code. A report certifying the reconstitution of the CoC was filed on 14.03.2023 before this Tribunal.

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3. In the 1<sup>st</sup> CoC meeting held on 16.12.2022, the IRP stated he could not continue as the Resolution Professional ('RP') due to personal reasons. Consequently, the CoC decided to appoint AAA Insolvency Professionals LLP as the new RP.
4. Further, an application (IA No. 13 of 2023) was filed on 28.12.2022, before this Tribunal, seeking approval to replace the erstwhile IRP with the new Applicant. This Tribunal, in its discretion, considered the application and subsequently vide order dated 13.02.2023 appointed the Applicant as the RP.
5. In the 2<sup>nd</sup> CoC meeting was convened by the erstwhile IRP on 13.01.2023, the IRP apprised the members of CoC for publication of Form G. Thereafter, the IRP published Form G in two newspapers inviting Expression of Interest (EoI) on 19.01.2023 and the last date for submission of EoI was till 03.02.2023.
6. Further, in the 3<sup>rd</sup> CoC meeting held on 16.02.2023, the Applicant apprised the members of CoC regarding the re-publication of Form-G, but the said resolution was declined by 99.9% votes from the member of the CoC.
7. In the 5<sup>th</sup> CoC meeting convened on 19.04.2023, the Applicant informed the CoC members about the need to publish a fresh Form-G in accordance with Regulation 36A of the Corporate Insolvency

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Resolution Process Regulations, 2016. A resolution for this purpose was passed with 99.9% of the votes from the CoC.

8. It is further submitted the Applicant sought approval from the members of the CoC for extension of 90 days over and above the period of 180 days and the same was approved by the CoC with 99.99% votes in favour of the same.
9. It is stated that vide order dated 17.05.2023, this Tribunal granted extension of 90 days over and above the period of 180 days for completion of CIRP of the Corporate Debtor in terms of Section 12(2) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 40(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016.
10. It is submitted that on 26.04.2023, Form-G was published for the second time in two newspapers inviting Expression of Interest (EoI) on 26.04.2023 and the last date for submission of EoI was till 11.05.2023.
11. In the 6<sup>th</sup> meeting of CoC held on 10.07.2023, the Applicant apprised the CoC that he reminded Prospective Resolution Applicants (PRAs) to submit their plans by 25.06.2023, but none of the PRAs submitted their plans. Despite receiving interest from five PRAs, including one from Mr. Warij Abhay Kumar Kasliwal, expressing their interest in participating in the expression of interest. However, the Applicant further apprised the members that, according to Regulation 36A sub-regulation 4A of the

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CIRP Regulations, 2016, an expression of interest cannot be issued more than twice during the CIRP. Two EOIs had already been issued on 19.01.2023 and 26.04.2023. In response to these expressions of interest, eight PRAs submitted their interest. However, only one resolution plan was submitted following issue of the first expression of interest, and the Resolution Applicant did not submit a resolution plan in response to the second expression of interest issued on 26.04.2023.

12. Further, the Applicant informed the CoC that he does not have the authority to release another Form-G to invite EoI without approval from the Adjudicating Authority and assurances from interested PRAs. After discussions, the CoC members noted that the 270-day CIRP period would expire on 15.08.2023, the CoC concluded that issuing a third Form-G would be futile. They further resolved to liquidate the company, instructing the liquidator to keep it operational and make efforts to sell the company as a going concern during the liquidation process.
13. Accordingly, the CoC decided that liquidation is the only viable option available. After discussions, the CoC passed the following Resolution to liquidate the Corporate Debtor with 99.993% votes.
14. The relevant extracts of the resolution passed in 6<sup>th</sup> CoC meeting held on 10.07.2023 are as follows:

*“RESOLVED THAT in pursuance to Section 33(2) of IBC 2016 and the rules made thereunder, the consent of the members*

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*of the COC be and is hereby accorded to approve the initiation of liquidation process in respect of S. Kumar (CIN-U17100MH1972PLC015956) and to file an application with the Hon'ble NCLT in this behalf."*

*"**RESOLVED THAT** the Resolution Professional, AAA Insolvency Professionals LLP (through Mr. Ankit Goel, authorized partner), bearing reg. no. IBBI/IPE-0002/IPA-1/2022-23/50001 be and is hereby approved to be appointed as the Liquidator of S. Kumar Limited (U17100MH1972PLC015956)."*

*"**FURTHER RESOLVED THAT** the members of the Committee of Creditors be and hereby approves the revised remuneration of the Resolution Professional, AAA Insolvency Professionals LLP, bearing reg. no. IBBI/IPE-0002/IPA-1/2022-23/50001 to the tune of Rs. 2,00,000 (Rupees Two Lakh only) per month plus applicable taxes, from the date of filing of liquidation application before the Hon'ble Adjudicating Authority till date of final order for liquidation in the matter of S. Kumars Limited."*

15. Looking at the application and averments made therein, we are of the considered opinion that this is a fit case for liquidation. Therefore, we hereby order the liquidation of the company within the following terms:

- a. The **AAA Insolvency Professionals LLP (through Mr. Ankit**

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**Goel, authorized partner**), holding Registration No. **IBBI/IPE-0002/IPA-1/2022-23/50001**, is appointed as the Liquidator in terms of Section 34 of the Code;

- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai and to the Insolvency and Bankruptcy Board of India;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed 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.
- f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

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- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor if any 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, the Liquidator for taking necessary steps.

16. The IA- 4180/2023 filed by the RP for Liquidation of the Corporate Debtor stands **allowed accordingly in aforesaid terms.**

Sd/-

**ANIL RAJ CHELLAN**  
**(MEMBER TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER**  
**(MEMBER JUDICIAL)**