

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No. 206
IA/532(AHM)2022 in CP(IB) 409 of 2020

Order under Section U/s 33 (1) (2) (3) IBC, 2016

In the Matter of:

Mr. Sachin Naveen Sinha

...Applicant/ RP

In The Matter of:

[An application filed u/s 9 of the IBC]

Skystep Trading Ltd

...Operational Creditor

V/s

Tradohub B2B Ltd.

...Corporate Debtor

Order delivered on ..06/03/2023

Coram:

Dr.Madan B. Gosavi, Hon'ble Member(J)

Kaushalendra Kumar Singh , Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

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

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

DR. MADAN B GOSAVI
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

**I.A. No. 532 of 2022 IN
C.P. (I.B.) No.409/NCLT/AHM/2020**

(Application under Section 33 of the Insolvency and Bankruptcy Code, 2016)

In the Matter of:

Mr. Sachin Naveen Sinha

Flat No. N-203, Parshwanath Metro City ,
Nr. H.B. Kapdia School, Sakar Street, T.P. 44,
Chandkheda , Nr. H.B. Kapdia School ,
Ahmadabad,Gujarat ,382424

...Applicant/ RP

In the Matter of:

[An application filed u/s 9 of the IBC]
Skystep Trading Ltd.,
Having its office at
32, Kritis, Papachristoforou Building,
4th Floor, 3087, Limassol Cyprus

...Operational Creditor

Versus

Tradohub B2B Limited

**(Formerly known as Ingenius
E- commerce Private Limited)**

A-906, Titenium City Center,
Near Sachin Towers, 100 Feet Ring Road,
Ahmedabad – 380015,
Gujarat

...Corporate Debtor

Order Pronounced on: 06.03.2023

**Coram: Dr. Madan B. Gosavi, Member (Judicial)
Kaushalendra Kumar Singh, Member (Technical)**

Appearance: Mr. Savan Maheshkumar Soni for the Applicant, Mr. Sachin Naveen Sinha for the RP.

ORDER

1. The instant Application is filed by Mr. Sachin Naveen Sinha, Resolution Professional of Corporate Debtor Tradohub B2B Limited, under Section 33 (1) (2) and (3) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**Code**”) for liquidation of the Corporate Debtor.
2. This Adjudicating Authority, vide order dated 16.11.2021, had admitted the application filed by Skystep Trading Limited (Operational Creditor), under Section 9 of Code for initiation of Corporate Insolvency Resolution Process (‘CIRP’) of the Corporate Debtor and appointed Mr. Sachin Naveen Sinha as the Interim Resolution Professional (‘IRP’).
3. In compliance with the provisions of IBC, the IRP made a public announcement in Financial Express (English) dated 26.11.2021 and in Financial Express (Gujarati) dated 27.11.2021 regarding the initiation of the CIRP against the Corporate Debtor company and invited claims from the Creditors of the Corporate Debtor Company.
4. Total claims received and admitted till the date of this application is given as under:

SUMMARY REPORT OF CLAIMS			
No.	NAME OF THE CREDITOR	AMOUNT (In Rs.)	
		CLAIMED	ADMITTED
1	Financial Creditors	11,59,05,619.47	11,59,05,619.47
2	Operational Creditors	6,91,75,771.07	6,91,75,771.07
3	Workers/Employees	X	X
4	Other Creditors	X	X
	TOTAL	18,50,81,390.54	18,50,81,390.54

5. The CoC in its second meeting dated 30th December, 2021 confirmed appointment of Mr. Sachin Naveen Sinha as Resolution Professional w.e.f. 01/01/2022. In the 3rd CoC meeting dated 21st February, 2022 the draft Form G inviting Expression of Interest by the proposed Resolution Applicant was placed before the CoC and newspaper was published on 23rd February, 2022 in Financial Express daily English and Gujarati Edition inviting expression of interest in Form G.
6. The CoC in 4th meeting dated 15th of March, 2022 discussed whether to continue the Corporate insolvency resolution process or liquidate the Company and for appointment of the auditors.
7. The CoC in its 5th meeting held on 12th April, 2022, considering the entire scenario that the company has only 1 immovable property i.e. 402, Akshar Stadia at thaltej whose value is very less and that the Company does not have any feasibility of maintaining and running its business operations, decided to liquidate the Corporate Debtor with 69.22% vote share. The CoC agreed to continue the Resolution Professional as the Liquidator of the Corporate Debtor.
8. The Valuation Report of the Land & Building done by valuers and details are given below:

Name of the valuer/s	Location of Asset/s	Class of Asset/s	Fair Value (Rs.)	Liquidation Value (Rs.)
RV. Parag Seth	Office no. 402, Akshar Astadia, B/h Patel Avenue, Sindhu Bhavan Road, Bodakdev, Ahmedabad – 380054 (Gujarat)	Land & Buildings	60,00,000/-	48,00,000/-

RV. Kushal Jajada	Office no. 402, Akshar Astadia, B/h Patel Avenue, Sindhu Bhavan Road, Bodakdev, Ahmedabad – 380054 (Gujarat)	Land & Buildings	62,65,000/-	50,12,000/-
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9. We have carefully heard and considered the arguments of the learned counsel for the RP and have also perused the records. Taking into consideration the above facts in relation to the affairs of the Corporate Debtor, the provisions of Section 33 of Code are as follows:

“33. Initiation of liquidation. –

(1) Where the Adjudicating Authority, -

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast-track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30;

Or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; And

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) where the resolution professional at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the adjudicating authority of the decision of the committee of creditor approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating

Authority shall pass a liquidation order as referred to in sub-clause (i), (ii) and (iii) of clause (b) of Sub-Section (1)”.

10. The Hon’ble National Company Law Appellant Tribunal (‘NCLAT’), in *Praveen Kumar Nand Kumar Vs. VSL Securities Pvt. Ltd.* in CA No. 1/2020 in CA No. 308/2000, dated 09.06.2020, observed as under: -

“Likewise, the decision of the COC recommending liquidation of the corporate debtor after proper evaluation of the assets and liabilities of corporate debtor with no Resolution Plan forthcoming would be a business decision falling within the domain of commercial wisdom of the COC which is not amenable to judicial review.”

11. In view of the foregoing, with this, we proceed to pass the following order:

- i. We hereby pass the order of liquidation of the Corporate Debtor Tradohub B2b Limited, and allow IA No. 532 of 2022. The liquidation of the Corporate Debtor is effective from the date of this order.
- ii. The liquidation of the Corporate Debtor is effective from the date of this order and the Moratorium declared vide order dated 16.11.2021 in CP (IB) No.409/NCLT/AHM/2020, henceforth, ceases to exist.
- iii. As per the Section 34(1) of the I.B. Code, Mr. Sachin Naveen Sinha having Registration No. IBBI/IPA-002/IP- N00939/2019-2020/12985 is hereby appointed as a Liquidator of the company, Male Square Retails Private Limited, who shall complete the liquidation process as per the provisions of Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- iv. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth vest with the Liquidator.
- v. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provisions of Section 19 of the Code shall apply in relation to liquidation process as they apply in relation to CIRP process with the substitution of references to the Interim Resolution Professional for references to the Liquidator.
- vi. As per Section 33(5) of the Code and subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, Provided that a suit or other legal proceedings may be instituted by the Liquidator on behalf of the Corporate Debtor, with the prior approval of the Adjudicating Authority;
- vii. The provisions of sub-section (5) of Section 33 of the Code shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator; and
- viii. This order of liquidation under Section 33 of the Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator; and
- ix. Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order also to be sent by the registry to Operational Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional cum Liquidator by Speed-post within one week from this order.

Accordingly, the present I.A. No. 532 of 2022 in CP (IB) 409/NCLT/AHM/2020 stands disposed of.

-SD-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-SD-

**DR. MADAN B GOSAVI
MEMBER (JUDICIAL)**

Divya/LRA