

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

C.A. 253 (PB) /2019

IN

Company Petition No. (IB)-661(PB)/2018

In the matter of:

Mr. Atul Mittal

Applicant/Resolution Professional

AND

In the matter of:

Interlink Petroleum Limited

Corporate Debtor

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

*Judgment delivered on: **01.04.2019***

Coram:

CHIEF JUSTICE (RTD.) M.M. KUMAR

Hon'ble President

S. K. MOHAPATRA

HON'BLE MEMBER (TECHNICAL)

For the R.P.: Mr. Amit Goel & Mr. Atul Mittal, Advocates

C.A. 253 (PB) /2019

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Company Petition No. (IB)-661(PB)/2018



ORDER

S. K. Mohapatra, Member

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the corporate debtor, M/s. Interlink Petroleum Limited.
2. The facts in brief are that the financial creditor, Loyz Oil Pte Limited had filed an application bearing number IB 661(PB)/2018 under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this Tribunal on 07.09.2018 initiating Corporate Insolvency Resolution Process against the corporate debtor and Mr. Atul Mittal was appointed as Interim resolution Professional (IRP).
3. It is stated that Interim resolution Professional initiated necessary steps under Section 15, 17 and 18 of the Code and held the first meeting of the Committee of Creditors (CoC) on 05.10.2018. In the first meeting of the



Committee of Creditors (CoC), the IRP was appointed as Resolution Professional (RP) to conduct Corporate Insolvency Resolution Process in respect of the Corporate Debtor.

4. It has been stated that the Resolution Professional prepared Information Memorandum (IM) and circulated among the members of Committee of Creditors. Invitation for Expression of Interest (EOI) was issued in Form G on 30.10.2018. Subsequent to release of advertisement inviting EOI for submission of resolution plan, one EOI was received by the RP along with required documents.
5. The EOI was approved by the committee of creditors at their meeting held on 22.11.2018. The prospective Resolution Applicant was requested to submit the Resolution Plan within the last date fixed for receipt of the resolution plan i.e. by 30.12.2018.
6. However, the Resolution Professional did not receive any resolution plan from the prospective resolution applicant till the last date for receiving the resolution plan i.e. by 30.12.2018. A reminder mail was also sent to the said



prospective resolution applicant on 28.12.2018 to submit the resolution plan. Nevertheless, the prospective resolution applicant did not submit any resolution plan.

7. The committee of creditors in its meeting held on 31.12.2018 recommended for the liquidation of the Corporate Debtor as per the provisions of the Code. The committee also recommended the resolution professional to continue as the liquidator.

8. The relevant portion of the minutes of 4th meeting of the committee of creditors held on 31.12.2018 is reproduced below:

“ The following resolution passed unanimously in this regard

“Resolved that no Resolution Plan has been received by the Committee of Creditors. The committee of creditors could not and has not approved any resolution plan

Resolved further that the resolution professional (RP) be and is here by authorized to make necessary petition before NCLT, Delhi Bench as per provisions of the IB Code, 2016

Further resolved that the Resolution Professional may be appointed as the Liquidation, as may be decided by the Hon'ble NCLT as per provisions of the IB Code, 2016"

9. Mr. Atul Mittal, resolution professional has furnished his written consent vide letter dated 21.01.2019 to accept the appointment as liquidator.
10. The resolution professional has also filed an affidavit on 05.03.2019 confirming that as on the date of commencement of CIRP i.e. as on 07.09.2018 there was no employee or workmen employed with the corporate debtor.
11. The resolution professional has submitted in the application that, *"there is no option left except the corporate debtor be liquidated due to the following reasons:*
- *that no resolution plan has been received;*
 - *that the corporate debtor has already discontinued its operations*
 - *that there is no employee working with the corporate debtor".*



12. In the factual background and in the absence of any resolution plan, there is no other alternative but to order in conformity with the unanimous decision of the CoC, for liquidation of the corporate debtor under Section 33 of the Code.

13. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. Interlink Petroleum 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. Atul Mittal, resolution professional holding registration no. IBBI/IPA- 001/ IP-P000439/ 2017-18/ 10762, is appointed as the Liquidator in terms of Section 34(1) of the Code;

b. Mr. Atul Mittal, liquidator 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. This order is deemed to be a notice of discharge to the officers, employees and the workmen, if any, of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- f. The Liquidator is directed to proceed with the process of liquidation of the



corporate debtor 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.

- g. The liquidator shall also follow up the pending company applications, if any, for its disposal during the process of liquidation and shall also *inter-alia* investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.
- 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. 253 (PB) / 2019 filed in IB 661 (PB) / 2018 is disposed of in the aforesaid terms.

-Sd-

(M.M.KUMAR)
PRESIDENT

-Sd-

(S.K. MOHAPATRA)
MEMBER (TECHNICAL)