

- ii. Thereafter, the Applicant had made a public announcement in the newspapers on 16.10.2019, for inviting claims. The copies of the Newspaper Announcements are annexed with the present Interlocutory Application as Exhibit – “C1” & “C2” colly.
- iii. Then the Applicant has constituted the Committee of Creditors in accordance with Section 21 of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 13(2)(d) and 17(1) and filed the list of Creditors and a Report certifying the constitution of the Committee of Creditors on 10.11.2019.
- iv. It is submitted that the Applicant has been confirmed as the Resolution Professional in the first meeting of the Committee of Creditors dt. 14.11.2019 and the management of the affairs of the Corporate Debtor is vested with the Applicant as Resolution Professional.

Information Memorandum and Expression of Interest

- v. The Applicant informed the members of the Committee of Creditors in the third meeting dt. 14.01.2020, that the Information Memorandum has been prepared on the basis of information available pertaining to Financial Years 2014-2015, 2015-2016 and 2016-2017 and reconstruction of books of accounts, and the Information Memorandum would be available to the members against Non-disclosure Agreement/Undertaking.

- vi. Applicant states that it was then resolved to publish the Expression of Interest in Form “G” under Regulation 36A (1) of Corporate Insolvency Resolution Process Regulations. The eligibility criteria for Applicants applying for Resolution Plan was also discussed and approved by the Committee of Creditors in the said meeting.
- vii. The Applicant states that a public announcement dt. 28.02.2020, in Form “G” was made inviting Expression of Interest from prospective investors and any other persons for the purpose of submission of Resolution Plan in respect of the Corporate Debtor.
- viii. Applicant states that Expression of Interest window was kept open for two months and the last date for receiving Expression of Interest was 30.04.2020. However, the Applicant states that he did not receive any Expression of Interest.
- ix. The Applicant submits that during the 6th meeting of Committee of Creditors held on 07.08.2020, the Resolution Professional informed the members that no Expression of Interest has been received from any potential Resolution Applicants and therefore Committee of Creditors have to decide whether revised Application for Expression of Interest could be issued and accordingly extension of timeline will be applied, which has been rejected by the members of the Committee of Creditors.

- x. Thereafter, Bank of Baroda, one of the members of the Committee of Creditors has requested to move a Resolution to invoke the Section 33(2) for Liquidation of the Corporate Debtor since they feel that the Corporate Debtor may not have any intrinsic commercial value for effective Resolution and actually no Expression of Interest has been received.
- xi. The Applicant states that Committee of Creditors deliberated at length and agreed that the business activities of the Corporate Debtor stopped since 2016 and that there are no basic infrastructure and amenities left in the Company e.g. machinery, saleable stocks, live customers/ orders so that rejuvenation/commencement of viable commercial operation is possible. Hence, the Liquidation could be only option left to consider.
- xii. Applicant submits that after discussion, it was Resolved to liquidate the Corporate Debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and authorize the Applicant to seek approval of the Bench.
- xiii. The Applicant states that the Committee of Creditors Resolved to appoint Mr. Sudip Bhattacharya, the Applicant herein as the Liquidator of the Corporate Debtor as per Section 34 of the Insolvency and Bankruptcy Code, 2016

- xiv. The Committee of Creditors Resolved Further That the 'Liquidator Fees' under Section 5(16) of the Insolvency and Bankruptcy Code, 2016 shall be determined by applying the table mentioned in Regulation 4 of the IBBI (Liquidation Regulation) 2016 and other expenses which will be necessary incurred by the Liquidator to perform his duties and functions under Section 35 of the Insolvency and Bankruptcy Code, 2016, shall be reimbursed at actuals by the secured lenders on regularly and under the Regulation 2A of the IBBI (Liquidation Regulation) 2016.
- xv. It is submitted that the appointment of Mr. Sudip Bhattacharya, the Applicant herein as the Liquidator was put to Electronic Voting and the same was passed with 76.27% majority. The Applicant herein has also given his consent to act as the Liquidator of the Corporate Debtor and the same is attached with the Application which is marked as Exhibit "N".
- xvi. Applicant lastly submits that the present Interlocutory Application is being filed by the Applicant for bona fide reasons and in good faith, in compliance of his fiduciary duties under Insolvency and Bankruptcy Code, 2016 and the Regulations made thereunder.

3. Having considered the submissions of the Application and on perusal of the averments made in the present Interlocutory Application, this Bench is

satisfied and accordingly is of the considered view that the present Interlocutory Application is in consonance with Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 and the same is liable to be allowed. Accordingly, the Liquidation is ordered.

- a) The Corporate Debtor (i.e. **TEXORANGE CORPORATION LIMITED**) shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) **Mr. Sudip Bhattacharya**, an Insolvency Professional (IBBI Registration No. **IBBI/IPA003/IP-N00080/2017-18/10703**, is appointed as the Liquidator of the Corporate Debtor.
- c) The fees payable to the Liquidator shall be in accordance with Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavor to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90

days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.

- g) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however 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.
- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- i) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- l) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.

- m) This Order 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.
- n) Copy of the Order shall be furnished to the Insolvency and Bankruptcy Board of India, New Delhi; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra, the Registered Office of the Corporate Debtor; and the Liquidator.
4. With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 2494 of 2020, stands disposed of as Allowed.
5. There would however be no order as to costs.
6. Ordered Accordingly.

IA 1003/2022

- 1) Mr. Aniruth Purusothaman, Ld. Counsel for the Applicant is present. The present Interlocutory Application has been filed by the Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of the National Company Law Tribunal, Rules, 2016 seeking leave of this Bench to appoint Mr. Ritesh Prakash Adatiya as the proposed Liquidator of the Corporate Debtor.
- 2) It is submitted that the Committee of Creditors of the Corporate Debtor consists of the following members:

(a) Bank of Baroda (Applicant No.1);

(b) Bank of India (Applicant No. 2)

3) It is submitted that Bank of Baroda and Bank of India, together holding 100% voting share in the Committee of Creditors of the Corporate Debtor, held a Joint Lenders Meeting (“JLM”) on 15.12.2021, with respect to the account of the Corporate Debtor. The JLM was attended by senior officials of both the banks, wherein some decisions are taken. The relevant extracts of the minutes of the JLM held on 15.12.2021, are reproduced herein below, for the convenience.

- i. The members were informed that it has been more than a year that the Application for Liquidation of the Corporate Debtor had been filed and the same is pending.
- ii. The experience with the proposed Liquidator Mr. Sudip Bhattacharya has not been satisfactory; various mails, reminders including phone calls have been made but proper action has not been taken.
- iii. Even the Transaction Audit Report is not yet submitted due to which filing of an Avoidance Application was also still pending.
- iv. Looking to these issues, it was suggested to change the proposed Liquidator as per the bank’s guidelines for appointment of RP’s/Liquidator after calling EoI’s.
- v. It was unanimously agreed and decided to propose a new Liquidator in the said matter with this Tribunal.

- 4) It is submitted that the Applicant No. 1 issued a letter dt. 10.01.2022, to Mr. Ritesh Prakash Adatiya, informing him of his selection as the proposed Liquidator of the Corporate Debtor. It is also submitted that Mr. Ritesh Prakash Adatiya has given his Written Consent to act as the Liquidator of the Corporate Debtor. The copy of the Consent Form along with a copy of the Certificate of Registration dt. 11.09.2018, issued by the Insolvency and Bankruptcy Board of India and a copy of the Authorization for Assignment dt. 24.12.2021.
- 5) It is submitted that the present Application has been made by Applicants who hold 100% voting share in the Committee of Creditors of the Corporate Debtor and it was unanimously agreed in the meeting of the JLM held on 15.12.2021, to propose a new Liquidator in the matter of the Corporate Debtor. Applicant however submits that grave and irreparable harm, loss and injury will be caused to the Applicants and the Corporate Debtor, if the prayers in the present Application are not granted. Applicant lastly submits that the balance of convenience lies in favour of the Applicants.
- 6) Having considered the submissions of the Applicant and on perusal of the averments made in the present Interlocutory Application, this Bench is satisfied and accordingly is of the considered view that the present Interlocutory Application is in consonance with Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 and the same is liable to be

allowed. Accordingly, this Bench allows the present Interlocutory Application thereby appointing Mr. Ritesh Prakash Adatiya having Registration No. IBBI/IPA-001/IP-P01334/2018-2019/12013, as the Liquidator of the Corporate Debtor in place of Mr. Sudip Bhattacharya.

- 7) Erstwhile Liquidator is directed to handover all the assets, effects and records, available with him to the newly appointed Liquidator. Newly appointed Liquidator is directed to take steps to complete the Liquidation Process.
- 8) The fees payable to the Liquidator shall be in accordance with Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- 9) With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 1003 of 2022, is allowed and disposed of.
- 10) Registry may list the Company Petition as and when fresh Interlocutory Application, if any, is filed.

Sd/-

Sd/-

**ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)**

**H. V. SUBBA RAO
MEMBER (JUDICIAL)**