



**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH: C-IV**

**IA-08(MB)2024**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016.

**Mr. Gaurav Ashok Adukia**

...Resolution Professional/  
Applicant

*In the matter of*  
**IN C.P.(IB)/05(MB)2020**

**J.C Flowers Asset Reconstruction  
Private Limited (Acting in its  
capacity as the trustee of JCF Yes  
Trust 2022-23/3**

...Financial Creditor

Vs.

**M/s Tulip Hotels Private Limited**

...Corporate Debtor

Ordered pronounced on: **16.01.2025**

***Coram:***

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Shri Kishore Vemulappalli  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicant/RP/Liquidator

: Adv. Nausheer Kohli a/w  
Ms. Sushmita Gandhi, Ms.  
Anamika Singh, Ms. Grishma  
Dalvi and Mr. Kushal  
Boolchandani i/b Indus Law.



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**ORDER**

1. This is an application filed by Mr. Gaurav Ashok Adukia, Resolution Professional of the Corporate Debtor seeking liquidation of *M/s Tulip Hotels Private Limited* under Section 33 of Insolvency and Bankruptcy Code 2016 (hereinafter called as the “Code”).
2. **Brief facts of the Application are as follows:**
  - a. This Tribunal vide an order dated 16.05.2023, in Company Petition bearing C.P.(IB)/05(MB)2020 filed under Section 7 of the Code, by J.C Flowers Asset Reconstruction Private Limited (JCFARPL) (hereinafter referred to as the “Financial Creditor”), admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against *M/s Tulip Hotels Private Limited* (hereinafter called as the “Corporate Debtor”) and appointed Mr. Gaurav Ashok Adukia as Interim Resolution Professional by this Tribunal. and by an email dated 28.06.2023, Mr. Prakash V. Kukreja expressed his inability to IBBI (Insolvency and Bankruptcy Board of India) to facilitate the CIRP of the Corporate Debtor and accordingly Ms. Padma Ganesh was appointed as the IRP vide an order dated 17.07.2023.



- b. Pursuant to the above said Order, the IRP herein issued a Public Announcement in two Newspapers, on 18.05.2023, in FORM A, thereby calling upon the Creditors of the Corporate Debtor to file their claims, along with proof. In consonance with the above Public Announcement, the IRP has received only one claim from JCARPL holding 100% of the voting share.
- c. Accordingly, the IRP in the First CoC Meeting which was conducted on 15.06.2023 informed the CoC for the appointment of IRP as RP (Resolution Professional) as per the Code. The CoC being the sole member had not ratified the appointment of Applicant as Resolution Professional. Therefore, the Applicant continues to perform the functions of Resolution Professional in terms of Regulation 17(3) of the CIRP Regulations.
- d. Subsequently, claims were filed by several Creditors and based on the claims received as on 08.11.2023, the Applicant verified the said claims and updated the list of creditors. Thus, the list of Creditors is tabulated herein with voting share:

Sr. No	Creditor	Voting Share
1.	JCFARPL	48.96%



2.	ARCIL V Hotels Ltd-I Trust	12.25%
3.	ARCIL V Hotels Ltd-II Trust	10.7%
4.	ARCIL V Hotels Ltd-III Trust	10.73%
5.	ARCIL V Hotels Ltd-IV Trust	16.58%
6.	IFCI Limited	1.42%

- e. The Applicant conducted 2<sup>nd</sup> CoC meeting on 10.11.2023 whereby the Applicant put forth the Agenda for filing an Application for extension of CIRP Period expiring on 12.11.2023. The CoC members expressed that they will communicate their decision regarding the extension Application through email voting. The Resolution Professional sent various reminders vide email dated 22.11.2023, 27.11.2023, 19.12.2023. The CoC member, ARCIL which held an aggregate of 49.62% voting share approved the Agenda on 22.11.2023, IFCI Limited which held an aggregate of 1.42% voting share and JCFARPL which held 48.95% rejected the agenda on 08.12.2023 and 19.12.2023 respectively. Thus, there was no majority decision on extension Application.
- f. Further, it is submitted that the list of creditors was revised in view of the order dated 21.11.2023 in Company Appeal



(AT)(INS) No. 1546 of 2022 passed by NCLAT directing the revision in the rate of interest in regards to the claims submitted by ARCIL. The revised creditors list is tabulated herein:

Sr. No	Creditor	Voting Share
1.	JCFARPL	70.83%
2.	ARCIL V Hotels Ltd-I Trust	6.75%
3.	ARCIL V Hotels Ltd-II Trust	5.46%
4.	ARCIL V Hotels Ltd-III Trust	5.85%
5.	ARCIL V Hotels Ltd-IV Trust	9.07%
6.	IFCI Limited	2.05%

- g. It is submitted by the Applicant that since no resolution for extension of CIRP period was acted upon by CoC and no resolution plan was submitted, the Applicant was left with no other option except to opt for Liquidation. Pursuant to the reconstitution of the CoC vide order dated 29.02.2024 passed by this Bench, the Applicant put forth the agenda for the Liquidation of the Corporate Debtor in the 3<sup>rd</sup> CoC meeting held on 03.10.2024, whereby the said agenda has been voted upon by only one CoC member i.e., IFCI Limited whereas remaining members have not been voted upon the agenda. The Applicant has also issued several reminders on



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email dated 18.10.2024, 22.10.2024, 04.11.2024 & 04.12.2024 to the CoC members from time to time and the Applicant has also extended the timeline for voting at the request of some of the CoC members.

3. It is submitted that CIRP expires on 12.11.2023 and there was no extension Application filed as it was not approved by majority of CoC members. Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.
4. Further, section 12(1) of the IBC mandates that the CIRP shall be completed within 180 days from the date of admission of the application to initiate the said process. Upon expiry of the said prescribed period, the Resolution Professional may file an application before the Adjudicating Authority for extension of the same if instructed to do so by a resolution by the CoC with 66% vote in accordance with section 12(2) of the IBC.
5. During the course of hearing, it has been submitted by the Applicant that one of the CoC member i.e. JCFARPL holding 70.83% voting share had sent an email dated 05.12.2024 stating that *“As discussed, kindly continue with the liquidation application meanwhile voting is underway. Further, the liquidation cost/fees to be discussed in Stakeholder’s Consultation Committee (SCC) and accordingly to be voted upon”* to the Applicant.



6. We have heard the learned counsels and have perused the documents on record and take note of the following facts (a) CIRP period expired on 12.11.2023 and an extension application has not been filed as there was no requisite resolution of CoC member as per section 12 of the code (b) there was no majority decision by the CoC member for Liquidation before filing of this Application (c) and when the matter was finally listed for hearing, the Applicant brought on record an email dated 05.12.2024 sent by JCFARPL holding 70.83% voting share for continuation of Liquidation Application.
7. This Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor if no resolution plan has been received before the expiry of the CIRP or before the maximum period permitted for completion of CIRP expires.
8. Section 33 of the Insolvency & Bankruptcy Code, 2016 provides that:  
  
*“(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—*



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*(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 creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)”.*

9. In that view of the matter, having considered the submissions and on perusal of averments made in the present Interlocutory Application; as also a perusal of email dated 05.12.2024 by JCFARPL holding 70.83% voting share in CoC, this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority has left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor. Hence ordered.





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**ORDER**

- a) The Application be and the same is allowed. The Corporate Debtor, ***M/s Tulip Hotels Private Limited***, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) It is to be noted that, as per IBBI vide its circular no. LIQ-12011/214/2023-IBBI/840 dated 18.07.2023 in the exercise of its powers conferred u/s 34(4)(b) of the Code had recommended that an IP other than RP/ IRP may be appointed as a liquidator in all the cases where the Liquidator (read liquidation) order is passed henceforth. In view of this circular of IBBI, we hereby appoint **Mr. Krishna Gopal Ratanlal Maheshwari**, having Registration No. **IBBI/IPA-001/IP-P-01296/2019-2020/12712** and address at 602, RAJENDRA RATNA, MAHESH NAGAR, S V ROAD, GOREGAON (W), Mumbai, Maharashtra ,400104 as the Liquidator to conduct liquidation process of “***M/s Tulip Hotels Private Limited***” as provided under Section 34(4) of the Code.
- c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (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.



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- f) The Liquidator shall endeavour 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 Code 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 the Liquidation Process Regulations.
- 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) 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.

- l) The Liquidator shall submit Progress Reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.
  - m) **The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.**
  - n) Registry shall furnish a copy of this Order to:
    - i. **Insolvency and Bankruptcy Board of India, New Delhi;**
    - ii. **Regional Director (Western Region), Ministry of Corporate Affairs;**
    - iii. **Registrar of Companies & Official Liquidator, Maharashtra;**
    - iv. **Registered Office of the Corporate Debtor; and**
    - v. **Liquidator, Mr. Krishna Gopal Ratanlal Maheshwari.**
10. With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 08 of 2024 IN C.P.(IB)/05(MB)2020, stands disposed of as **Allowed**. There would however be no order as to costs.
- Ordered Accordingly

Sd/-

**Anu Jagmohan Singh**  
**Member (Technical)**

Sd/-

**Kishore Vemulappalli**  
**Member (Judicial)**