



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT V, NEW DELHI**

**I.A. 5077/(ND)/2020
IN
COMPANY PETITION NO. (IB) – 1587/(ND)/2019**

*Under Section 33 of the Insolvency and Bankruptcy Code, 2016 for
initiating liquidation process of Corporate Debtor and to pass
other necessary directions.*

IN THE MATTER OF:

M/S J.C ENTERPRISES PRIVATE LIMITED

.... OPERATIONAL CREDITOR

VERSUS

M/S M K S OIL PRIVATE LIMITED

.... CORPORATE DEBTOR

AND IN THE MATTER OF

**MR. ABHIMANYU MITTAL,
RESOLUTION PROFESSIONAL**

...APPLICANT/RESOLUTION PROFESSIONAL

Order Delivered On: 15.09.2025

CORAM:

**SHRI MAHENDRA KHANDELWAL
HON'BLE MEMBER (JUDICIAL)**

**MS. ANU JAGMOHAN SINGH
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the RP : Mr. Abhimanyu Mittal, RP with Mr. Siddharth Banthia, Adv.

For the PNB : Ms. Rachita Garg, Adv.

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ORDER

1. This is an application filed by the Resolution Professional, Mr. Abhimanyu Mittal under Section 33(1)(a) read with Section 33(2) of the Insolvency and Bankruptcy Code, 2016 ("Code") read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("Liquidation Regulations"), for issuance of directions for liquidation of Corporate Debtor, M/s M K S Oil Private Limited.
2. The applicant in the present application has prayed for the following reliefs: -
 - i. *Condone the delay of filing the Liquidation Application, if any.*
 - ii. *Pass an order for liquidation of the corporate debtor as referred under sub-Section (2) of section 33 of the Insolvency and Bankruptcy Code, 2016;*
 - iii. *Pass any other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*
3. The facts in brief stated in the application is as under: -
 - a) This Adjudicating Authority vide its order dated 02.12.2019 had initiated the Corporate Insolvency Resolution Process against M/s M K S Oil Private Limited ('Corporate Debtor') in C.P.(IB) 1587/ND/2019 and appointed Mr. Atul Mittal having IBBI Registration No. IBBI/IPA-001/IP-P00439/2017-18/10762 as the Interim Resolution Professional of the Corporate Debtor.
 - b) The IRP under Section 15, 17 & 18 of the Code and made public announcement in Form A in the newspapers i.e. Business Standard- English & Hindi on 11.12.2019 and last date for filing the claims was 23.12.2019. In the first meeting of the Committee of Creditors on 07.01.2020, the agenda of ratification of the appointment of the Interim Resolution Professional as the Resolution Professional, was disapproved by the Committee of Creditor by 100%. The Interim Resolution Professional informed all the members that in the absence of any recommendation for appointment as "Resolution Professional", he shall continue to function as deemed Resolution Professional.

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- c) In the second meeting of the Committee of Creditors, the CoC approved the Eligibility Criteria for the Prospective Resolution Applicants in light of Section 25(2)(h) of the Code. The IRP invited the expression of interest from all the Prospective Resolution Applicants by publishing the prescribed Form G on 20.02.2020 in the newspapers i.e. Financial Express in English and Jansatta in Hindi.
- d) In the 3rd meeting of Committee of Creditors dated 27.02.2020, the Evaluation Matrix, Request for Resolution Plan were also put forth for the consideration of the Committee of Creditors and were approved accordingly. Further, the members of the Committee proposed the name of Mr. Abhimanyu Mittal having IBBI Regn. No. IBBI/IPA-001/IP-P-01870/2019-2020/12893 to act as the Resolution Professional. The said resolution was passed by the Committee of Creditors and the appointment of Mr. Abhimanyu Mittal as Resolution Professional was later approved by this Adjudicating Authority vide its order dated 03.07.2020.
- e) In the 4th meeting of Committee of Creditors held on 18.03.2020, the IRP informed the members that only 2 expressions of interests have been received from the Prospective Resolution Applicants in response to the Form G dated 23.02.2020, out of which 1 was found to be ineligible due to his failure to furnish complete records. The Committee of Creditors, to ensure maximization of the value of the assets of the Corporate Debtor decided to republish the Form G. It was further resolved that the prospective Resolution Applicants must provide non-interest-bearing Refundable Deposit along with their expression of interest amounting to Rs. 10,00,000/-. Accordingly, Form G was republished on 23.03.2020 in Financial Express English and in Jansatta Hindi along with the terms and conditions as prescribed by COC.
- f) In the 5th meeting of the Committee of Creditors, no voting was done by any of the Financial Creditors and the final result was circulated by the Applicant on 15.08.2020. Thereafter emails were sent to all the members of the Committee of

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Creditors seeking way forward for the smooth conduct of the CIRP and in response to the same one of the Financial Creditors, i.e. Punjab National Bank requested the Applicant RP to reopen the voting window so as to enable all the creditors to vote upon the agendas discussed in the 5th meeting of Committee of Creditors. Accordingly, the E-voting window was again opened on 21.08.2020, 12 P.M to 25.08.2020, 6 P.M and was further extended to 27.08.2020, 6 P.M. During this round, only one of the members of the Committee of Creditors, namely, IndusInd Bank having a share of 8.70 % voted upon the agendas. However, any of the agendas could not be passed during this round due to lack of votes.

- g) In order to assure the maximization of the value of the assets of the Corporate Debtor, the Resolution Professional again approached the prominent Financial Creditor, Punjab National Bank requesting them to provide a way forward. They were informed that in case, the agenda for the extension of the period of Corporate Insolvency Resolution Process was not approved by the Committee of Creditors; the Corporate Debtor would head for automatic liquidation. Upon the request of Punjab National Bank, the E Voting window was re-opened for the Final time from 12 P.M. to 6 P.M. on 11.09.2020. During this time, votes were casted only by Punjab National Bank having a voting share of 91.30% and the PNB voted against the agenda to file an extension application before the Adjudicating Authority
- h) The period of Corporate Insolvency Resolution Process was completed on 06.06.2020. As per Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Person Regulations), 2016, the period of lockdown shall not be included for the purposes of calculating the time period of the Corporate Insolvency Resolution Process. In accordance with the same, a period of 98 days i.e. from 25.03.2020 till 30.06.2020 has been excluded for the calculation of the period of CIRP. The period of 180 days of CIRP have expired on 12.09.2020.

- i) Accordingly, the Corporate Debtor should be liquidated under the provisions of

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Section 33 of the Code. The Resolution Professional stated that there is no option left except that the Corporate Debtor be liquidated because the timeline for the completion of the Corporate Insolvency Resolution Process has already expired and no directions have been received from the Committee of Creditors for the extension/liquidation in respect of the same. Hence, the present Application.

4. We have heard the learned counsels and have perused the documents on record. It is noted that this Adjudicating Authority vide its order dated 02.12.2019 had admitted the application under Section 9 of the Code and initiated CIRP against the Corporate Debtor i.e. M/s M.K.S Oil Private Limited. The CIRP of the Corporate Debtor commenced on 02.12.2019 and was completed on 06.06.2020. In accordance with Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Person Regulations), 2016, the lockdown period i.e. a period of 98 days (25.03.2020 till 30.06.2020) has been excluded for the calculation of the period of the CIRP. The period of 180 days of CIRP expired on 12.09.2020.
5. The Resolution Professional stated that there is no option left except that the Corporate Debtor be liquidated because the timeline for the completion of the Corporate Insolvency Resolution Process has expired and PNB having a voting share of 91.30% has rejected the agenda to file an extension application before the Adjudicating Authority
6. We take note of the fact that CIRP period expired on 12.09.2020 and an extension application has not been filed as there was no requisite resolution of CoC member as per section 12 of the code. It is noted that the 5th CoC meeting had the agenda for an extension application to be filed before the Adjudicating Authority and the 5th CoC meeting was held on three separate occasions due to lack of participation of the CoC members. The following are the details of the same:
 - a) The minutes of the First Round was circulated on 08.08.2020. The e-voting window was open from 10.08.2020 to 13.08.2020. Since, none of the Financial Creditors participated in the said meeting, the voting window was extended till



14.08.2020. E-voting results of the said meeting circulated on 15.08.2020 is placed on record as Annexure-12.

- b) For the second round of the meeting, the Resolution Professional sent mails to the members of the CoC for active participation for smooth conduct of the CIRP and upon request from one of the Financial Creditors i.e. PNB to reopen the voting window so as to enable all the creditors to vote upon the agendas discussed in the 5th meeting, the e-voting was again opened on 21.08.2020. It was extended till 27.08.2020. During this round, only one of the members of the Committee of Creditors, namely, Indusind Bank having a share of 8.70% voted upon the agendas, but the agendas in this round could not be passed due to lack of votes. E-voting results of the said meeting circulated on 28.08.2020 is placed on record as Annexure-12.
- c) For the third round of the meeting, the Resolution Professional again approached the Financial Creditors stating that that in case, the agenda for the extension of the period of Corporate Insolvency Resolution Process was not approved by the Committee of Creditors; the Corporate Debtor would head for automatic liquidation. E-Voting was reopened for the final time on 11.09.2020. During this time, votes were casted only by Punjab National Bank having a voting share of 91.30% and upon perusal of the e-voting results it is noted that the PNB voted against the agenda to file an extension application before the Adjudicating Authority. E-voting results of the said meeting circulated on 12.09.2020 is placed on record as Annexure-12.

7. In light of the above, it is evident that the CoC members did not participate in the 5th CoC meeting on several occasions. The lead CoC member i.e. PNB has not approved the agenda for an extension application to be filed before the Adjudicating Authority, despite being informed by the Resolution Professional that if the agenda for the extension of the period of Corporate Insolvency Resolution Process were not approved by the Committee of Creditors; the Corporate Debtor would head for automatic liquidation. Moreover, the Ld. Counsel on behalf of PNB appeared before

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the Adjudicating Authority on 28.08.2025 and they have not objected to the instant application.

8. Section 33 of the Insolvency & Bankruptcy Code, 2016 provides for order of liquidation by the Adjudicating Authority. Section 33 of the Insolvency & Bankruptcy Code, 2016 reads as under:

“(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 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 above, having considered the submissions and on perusal of averments made in the present Interlocutory Application, this Bench is satisfied and



is of the considered opinion that the present Interlocutory Application is in consonance with Section 33 of the Code. In the present case, CIRP was initiated on 02.12.2019 and 180 days as provided under Section 12 of the Code including exclusion on account of lockdown ended on 12.09.2020. Thereafter, Section 12 of the Code also mandates that the corporate insolvency resolution process shall be completed within a period of three hundred and thirty days from the insolvency commencement date, which has also expired in the instant case.

10. Accordingly, this Authority is 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 that the timeline for the completion of the Corporate Insolvency Resolution Process has already expired and no extension application has been approved by the CoC.
11. In light of the above, the application is allowed by ordering liquidation of the corporate debtor, namely M/s M K S Oil Private Limited with following directions:
 - a) That Mr. Abhimanyu Mittal, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional;
 - b) It is to be noted that, as per IBBI vide its circular no. LIQ12011/214/2023-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;
 - c) In view of the above circular of IBBI, from the panel of Insolvency Professional(s) (IPs) valid for the period- July 1, 2025- December 31, 2025 issued by IBBI, we hereby appoint Mr. Pawan Kumar Garg, holding Registration No. IBBI/IPA-001/IP-P00608/2017-2018/110069, having email id- ca.pawangarg@gmail.com as the Liquidator in terms of Section 32(1) of the Code. The Liquidator is directed to give his written consent in the specified form along with a copy of registration certificate as well as a valid AFA within 5 days of receipt of this order;

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- d) 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;
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation;
- f) 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;
- g) 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;
- h) This order shall be deemed to be 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;
- i) The Liquidator is directed to proceed with the process of liquidation in the 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.
- j) 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.
- k) 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 as per law.
- l) The Liquidator shall submit 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;
- m) Copy of this order be sent to the financial creditors, corporate debtor, CoC members and the Liquidator for taking necessary steps;
- n) The CoC is directed to pay the remuneration and expenses of the Applicant including that of professional advisors subject to the provisions of IBC Code,

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2016 and CIRP Regulations, 2016.

I.A 5077/ND/2020 in CP(IB) 1587/ND/2019 stands **allowed** and is disposed of in accordance with the aforesaid terms. Let a copy of the order be served to the parties.

Sd/-
(ANU JAGMOHAN SINGH)
MEMBER (TECHNICAL)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)