

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

**IA(IBC)(LIQ.)/8(KB)2025
In
C.P. (IB)/39(KB)2023**

*An application under Section 33 (1) (a) of the Insolvency and Bankruptcy
Code, 2016*

In the matter of:

Shomuk Consultancy Services Private Limited, a company incorporated under the provisions of the Companies Act, 1956, having its registered office at 5A, Palm Avenue, Kolkata- 700019.

... .. Corporate Debtor

And

In the matter of:

Jitendra Lohia, son of Late Shri Rajendra Kumar Lohia, aged about 49 years, having registration number IBBI/IPA-001/IP-P00170/2017-18/10339 and office at 2/7, Sarat Bose Road, Vasundara Building, Kolkata- 700020.

... .. Applicant/Resolution Professional

Date of pronouncement: 8th August, 2025

CORAM:

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)
CMDE SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)**

Appearance (via video conferencing/physically)

Mr. Rishav Banerjee, Adv.] For the Financial Creditor
Mr. Amit Kr. Nag, Adv.]
Ms. Ranjabati Ray, Adv.]
Ms. Ritika Ghosh, Adv.]

Mr. Saurav Jain, Adv.] For the Resolution Professional
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Mr. Pankaj Agarwal, Adv.] For the Suspended Board of Directors
Ms. Muskan Agarwal, Adv.]

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Court convened via hybrid mode of conferencing.

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- 2.** The Learned Counsel for the parties were heard *in extenso*.
- 3.** This application IA(IBC)(LIQ.)/8(KB)2025 has been preferred by Applicant to seek the following reliefs, inter alia:
 - (a)** *The Hon'ble Tribunal may graciously be pleased to pass an order requiring the corporate debtor to be liquidated in the manner as laid down in Chapter III as provided under Section 33 of the Insolvency and Bankruptcy Code, 2016; and*
 - (b)** *Appointment of Mr. Mahesh Chand Gupta (Registration No. IBBI/IPA-001/IP-P01489/2018-2019/12304) as the Liquidator of the CD; and*
 - (c)** *Any other directions which the Hon'ble National Company Law Tribunal, Kolkata Bench may deem fit in the facts and circumstances of the matter;*
- 4.** Pursuant to the order dated 11th June, 2024 of this Tribunal, Corporate Insolvency Resolution Process (CIRP) was initiated upon the Corporate Debtor. Vide the said order dated 11th June, 2024, the Applicant was appointed as the Interim Resolution Professional (IRP).
- 5.** In Compliance of Sections 13 and 15 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016, the applicant made Public Announcement in Form-A on 13th June, 2024 in Financial Express (English) and Ekdin (Bengali), Kolkata newspapers.
- 6.** In terms of Regulation 6A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate

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persons) Regulations, 2016, the Applicant published Form G on 10th August, 2024, 7th September, 2024 and 9th December, 2024 in which corrigendum of Form G was issued on 14th September, 2024 and the last date of submission of Expression of Interest (EOI) was 25th August, 2024, 14th September, 2024 and 24th December, 2025.

- 7.** No resolution plan was received till the date of filing of this application. The COC did not find it feasible to keep on re-issuing of Form G and wanted the Corporate Debtor to go into liquidation directly, as had the CIRP process, if continued, would have only increased the CIRP cost without any fruitful outcome which would have ultimately created burden on the stakeholders. Copy of all Form G issued are marked as **“Annexure E”**.
- 8.** An application under Section 12 (2) of the Insolvency and Bankruptcy Code, 2016 was filed before this Tribunal for the extension of the CIRP by another 90 days to maximize the interest of the Stakeholders. The said application was heard and order was passed on 11th December, 2024 approving the extension of the CIRP process by 90 days. Copy of the order dated 11th December, 2024 is marked as **“Annexure F”**.
- 9.** Pursuant to the extension received by way of an order dated 11th December, 2024, the CIRP was scheduled to end on 8th March, 2025. Accordingly, the 10th COC meeting was conducted on 6th March, 2025 and the applicant had duly informed the COC members about the CIRP closure date and requested them to decide whether the members wanted to go for liquidation in terms of the Insolvency and Bankruptcy Code, 2016 as there is

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no Resolution Plan. Thereafter, the applicant was informed by the sole COC member being M/s. Aditya Birla Finance Limited that they are in process of a mutual settlement with Mr. Aniruddha Banerjee being the Suspended Board of the Corporate Debtor and they are almost under the conclusive stage. However, the same is pending for approval from the higher management of Aditya Birla Finance Limited. Accordingly, they needed some time and the COC had requested the applicant to seek exclusion-cum-extension for a period of 45 days from the CIRP period before this Tribunal so that the necessary compliance in this regard could be concluded. Thereafter, an extension-cum-exclusion application was filed before this Tribunal and the same was allowed by an order dated 12th March, 2025. Copy of the Order dated 12th March, 2025 is marked as **“Annexure G”**.

- 10.** An application was also filed by the Applicant under Sections 66 and 45 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 35A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016, *inter alia*, challenging the fraudulent transactions carried out by the respondents for the purpose of defrauding the creditors of the corporate debtor and in order to unjustly enrich themselves at the expenses of the corporate debtor. The Applicant was required to approach this Tribunal within 130 days from the insolvency commencement date, i.e., 19th October, 2024 in terms of Regulation 35A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process

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for Corporate Persons) Regulations, 2016, the Applicant was unable to do so in view of non-cooperation on the part of the suspended board in regard to furnishing of documents and information necessary to enable the applicant to form an opinion and determination as to whether any avoidance transactions have been carried out in respect of the corporate debtor. The delay that has occurred is for reasons solely attributable to the suspended board and for reasons completely beyond the control of the Applicant.

- 11.** In the 12th COC meeting it was decided by the committee that, since there is no resolution plan received within the maximum permissible CIRP period and moreover their decision for mutual settlement between the Suspended Board and the Financial Creditor has been officially dropped and the last date for the conclusion of the CIRP granted by Tribunal is 22nd April, 2025, hence, in absence of any other more favorable alternative and citing that no other option is available for resolution, hence, the COC members were of the opinion to liquidate the corporate debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016 and advised the Resolution Professional to file the application in this regard with this Tribunal. This agenda has been voted upon and the sole COC member, namely, Aditya Birla Finance Limited has voted in favour of it. Copy of the Notice and minutes of the 12th COC meeting and e-voting report is marked as **“Annexure H”**.
- 12.** However, the COC stated through e-voting that no decision is currently required to be taken to be taken to sell the company

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as per Regulation 32E or 32F of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- 13.** The resolution was also taken and recorded in the 12th CoC meeting held on 19th April, 2025 and it was decided by the CoC that the decision to liquidate the Corporate Debtor be recorded in the minutes and same would be further confirmed through e-voting and requested the RP to prepare for filing of the application on or before the CIRP conclusion date:

Item No. 5, Resolution No.2:

“RESOLVED THAT, the COC were of the opinion that in the absence of any resolution regarding the withdrawal of the Corporate Insolvency Resolution Process (CIRP), there are no viable options remaining. Consequently, the CoC has determined that the only course of action is to proceed with the liquidation of the Corporate Debtor (CD). A requisite application shall be filed with the Hon'ble National Company Law Tribunal (NCLT) in accordance with the provisions of Section 33 of the Insolvency and Bankruptcy Code, 2016.”

**THIS RESOLUTION WAS APPROVED WITH 100 % VOTES
IN FAVOUR OF THE AGENDA.**

- 14.** The resolution was also taken and recorded in the 12th CoC meeting held on 19th April, 2025 and it was also decided by the CoC to take decision and approval on the appointment of the liquidator if CoC decides to liquidate the company under Section 33:

Item No 7, Resolution No. 4:

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“RESOLVED THAT, the Committee hereby recommends and approves the appointment of Mr. Mahesh Chand Gupta (Registration No.: IBBI/IPA-001/IP-P01489/2018-2019/12304) as the Liquidator of the CD if the COC members have decided the company to be referred into Liquidation under Section 33 of the code.”

THIS RESOLUTION WAS APPROVED WITH 100.00% VOTES IN FAVOUR OF THE AGENDA.

Copy of notice, minutes and e-voting report of the 12th COC meeting is annexed and copy of the written consent of the Liquidator proposed by the CoC member is annexed herewith and marked as **“Annexure I”**.

- 15.** In the present case, the statutory period for the CIRP has been exhausted, and no resolution plan has been received, therefore, applicant after the approval of the COC member prefers to file an application under section 33 (1) (a) as decided by the CoC, before this Tribunal seeking an order requiring the Corporate Debtor to be liquidated in the manner as laid in the Chapter III of IBC 2016.
- 16.** Accordingly, this Bench, therefore, hereby orders as follows:
- a.** Prayers as sought for in IA(IBC)(LIQ.)/8(KB)2025 filed by Applicant, is allowed and Shomuk Consultancy Services Private Limited, the Corporate Debtor is ordered to be liquidated in terms of Section 33(1) of the Code.
 - b.** Mr. Mahesh Chand Gupta (Registration No.: IBBI/IPA-001/IP-P01489/2018-2019/12304), email: mcgupta90@gmail.com, is hereby appointed as Liquidator.

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We find his consent form along with AFA on record as provided under Section 34(1) of the Code;

- c.** The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d.** Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in liquidation.
- e.** All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with Section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f.** The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g.** On initiation of the liquidation process but subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in Section 33(5) of the Code read with its proviso.
- h.** In accordance with Section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate

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Debtor continued during the liquidation process by the Liquidator.

- i.** In terms of Section 33 (1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.
- 17.** The application bearing IA(IBC)(LIQ.)/8(KB)2025 shall stands disposed of in accordance with the above directions.
- 18.** List the main C.P. (IB)/39(KB)2023 for reporting progress on **30th October, 2025.**
- 19.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- 20.** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

This Order signed on this, the day of 8th August, 2025.

SM (Steno)