



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT – VI
(Special Bench)

Item No.608
IB-733/ND/2023
IA (Liq)/40/2025

IN THE MATTER OF:

M/s Indo Spirits ... Appellant
Versus
M/s Path2way HR Solution Pvt. Ltd. ... Respondent

Under Section 9 of Insolvency & Bankruptcy Code, 2016

Order delivered on 03.03.2026
HYBRID HEARING (PHYSICAL & VC)

CORAM:

SHRI ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (JUDICIAL)

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

PRESENT:

For the Applicant :
For the CoC : Adv. Aishani Das, Adv. Balapragatha Moorthy

ORAL ORDER

1. The CIRP qua the corporate debtors commenced in term of the order dated 06.08.2025. Indubitably despite expiry of the period of 180 days of liquidation period of CIRP, we have not received any resolution plan. Thus, in terms of the provisions of Section 33 of the IBC 2016, the company need to be liquidated. Besides, the committee of creditors has passed resolution dated 02.12.2025 resolving that the company should be liquidated. Relevant excerpt of the resolution reads thus:

***“RESOLVED THAT,** pursuant to the provisions of Section 33 of the Insolvency and Bankruptcy Code, 2016 (“Code”) and the applicable provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Members of Committee of Creditors of Path2Way HR Solutions Private Limited hereby accords its approval for initiation of liquidation of the Corporate Debtor, in terms of the provisions of the Code.*

***RESOLVED FURTHER THAT,** in accordance with the provisions of Section 34(1) of the Code read with Regulation 3 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the CoC hereby approves the appointment of Mr. Rabindra Kumar Mintri (IBBI/IPA-001/IP-P0707/2017-2018/11194) as the Liquidator to conduct and administer the liquidation process of the*



Corporate Debtor, with remuneration as per the provisions of the Liquidation Process Regulations and as noted by the CoC.

RESOLVED FURTHER THAT *the Resolution Professional is hereby authorised and directed to file an appropriate application under Section 33 of the Code before the Hon'ble National Company Law Tribunal ("NCLT") and to undertake, execute and file all necessary forms, documents, affidavits, records, declarations, reports and any other papers, and to take such incidental, consequential, ancillary or other actions as may be required for effectively giving effect to the aforesaid resolutions of the CoC."*

*The Representative of the Sole Financial Creditor, Pernod Richard India Private Limited, holding 100% voting share, approved the aforesaid agenda item. Accordingly, the resolution was passed with **100% approval.***

2. From Section 33(2) of IBC, 2016, it is apparent that the CoC may decide for liquidation of the corporate debtor at any time and this Adjudicating Authority would pass an order in due deference to the decision taken by the CoC. The provisions of Section 33(2) reads thus:

"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 ¹[approved by not less than sixty-six per cent. of the voting share] 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)."

In the wake of the aforementioned resolution passed by the CoC, the provisions of Section 33(2) of IBC, 2016, we are noted that the directed liquidation process.

3. In **Sreedhar Tripathy vs. Gujarat State Financial Corporation and Ors.** (MANU/NL/0788/2022) Hon'ble NCLAT observed thus:-

"The Explanation under Section 33(2) has been inserted by Act of 26 of 2019 contains the legislative declaration and intention. The CoC in the Legislative Scheme has been empowered to take decision to liquidate the Corporate Debtor, any time after its constitution and before confirmation of the resolution plan. The power given to the CoC to take decision for liquidation is very



wide power which can be exercised immediately after constitution of the CoC. The reasons which has been given in Agenda Item 1, it is made clear by the CoC that the Corporate Debtor is not functioning for last 19 years and all machinery has become scrap, even the building is in dilapidated condition and the CIRP will involve huge costs. We are not convinced with the submission of learned counsel for the Appellant that the CoC's decision is an arbitrary decision. CoC is empowered to take decision under the statutory scheme and when in the present case the decision of the CoC for liquidation has been approved by the Adjudicating Authority, we see not good ground to interfere at the instance of the Appellant. However, we make it clear that the decision taken by the CoC was in the facts of the present case and it cannot be said that whenever decision is taken for liquidation the same is not open to judicial review by the Adjudicating Authority and this Appellate Tribunal. It depends on the facts of each case as to whether the decision to liquidate the Corporate Debtor is in accordance with the I & B Code or not. With these observations, the Appeal is dismissed.”

4. In light of the above judgment, the CoC is empowered to take decision to liquidate the Corporate Debtor, any time after its constitution and before confirmation of the resolution plan. The aforesaid resolution was approved by the COC unanimously with 100% voting shares, in its 5th CoC meeting held on 02.12.2025. It is well settled that decision taken by the CoC in its commercial wisdom should not be interfered by the Adjudicating Authority. Further, the resolution for liquidation of the Corporate Debtor has been passed by COC with 100% voting. Thus, the application is allowed and the CD is ordered to be liquidated. In accordance with the provisions of Section 34(1) of the Code read with Regulation 3 of the Insolvency and Bankruptcy



Board of India (Liquidation Process) Regulations, 2016, the CoC hereby approves the appointment of Mr. Rabindra Kumar Mintri as the Liquidator to conduct and administer the liquidation process of the Corporate Debtor, with remuneration as per the provisions of the Liquidation Process Regulations and as noted by the CoC. Mr. Rabindra Kumar Mintri having Reg. No: IBBI/IPA-001/IP-P00707/2017-2018/11194 and e-mail ID: **mintri_ca@rediffmail.com** to carry out the liquidation process inter alia in terms of the following directions:-

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 (viz. Sections 35, 36, 38, 39 and 41 thereof) and other relevant rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date, enjoined upon him.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file a suitable application before this Adjudicating Authority.
- d) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.



- e) 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.
- f) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company applications during the process of liquidation.
- g) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation. 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- h) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.
- i) The Registry is directed to communicate this order to the Registrar of Companies, having jurisdiction over the Corporate Debtor and the Insolvency and Bankruptcy Board of India;

It goes without saying that fee of the Liquidator would be payable in terms of the provisions of Section 34(7) of the IBC, 2016 read with Regulation 4 of IBBI (Liquidation Process) Regulation 2016.

Accordingly, the application stands **disposed of**.

Sd/-
ANU JAGMOHAN SINGH
MEMBER (T)

Sd/-
ASHOK KUMAR BHARDWAJ
MEMBER (J)