



**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

IA No.2768/2023
In
CP (IB) No. 264/Chd/Pb/2019
(Admitted Matter)

(An application under sub-section (2) of section 33 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

IA No.2768/2023

Mr. Akhil Ahuja, Resolution Professional

Swani Motors Services Private Limited

Residential address:

B-29, LGF, Lajpat Nagar III, New Delhi, South,
National Capital Territory of Delhi, 110024

...Applicant/Resolution Professional

In the main matter of:

CP (IB) No.264/Chd/Pb/2019

(An application under section 7 of the Insolvency and Bankruptcy Code, 2016)

Romesh Kumar

.....Petitioner/ Financial Creditor

Vs.

M/s Swani Motors Services Private Limited

.....Respondent/Corporate Debtor

Order delivered on: 30.07.2025

CORAM: KHETRABASI BISWAL, MEMBER (JUDICIAL)

KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)



Present:-

For the Applicant-RP : Mr. Raghav Kakkar, Advocate

ORDER

IA No. 2768/2023

The present Application is being filed by Mr. Akhil Ahuja, Resolution Professional (hereinafter referred to as “RP”/ “Applicant”) of Swani Motors Services Private Limited (hereinafter referred to as “Corporate Debtor”) under sub-section (2) of Section 33 of the Insolvency And Bankruptcy Code, 2016 (hereinafter referred to as “Code”) read The National Company Law Tribunal Rules, 2016. It is prayed by the applicant that an order for liquidation of the Corporate Debtor in terms of sub-section (2) of Section 33 of the Code be passed and also prayed for exclusion of 4 days from the CIRP period occurred of the Resolutions on account of delay in obtaining approval from the CoC members.

2. The submissions made by the Applicant in its Application are summarized hereunder:

i) An insolvency Petition was filed under Section 7 of the Code by the Financial Creditor for initiating the Corporate Insolvency Resolution Process (for short hereinafter referred to as “CIRP”) in the case of the Corporate Debtor. The Petition was duly admitted vide order dated



28.10.2022, and Mr. Akshay Mehra was appointed as Interim Resolution Professional (hereinafter referred to as “IRP”) of the Corporate Debtor under the CIRP. A copy of the order dated 28.10.2022 has been annexed as Annexure A-1 to the Application.

ii) Pursuant to the aforementioned order dated 28.10.2022, the Applicant collated all the claims submitted by the creditors and constituted a Committee of Creditors (hereinafter referred as to CoC), comprising of following financial creditors of the Corporate Debtor:

S.No.	Name of the Member Creditor	Voting Share
1.	State Bank Of India	45.67%
2.	Kotak Mahindra Prime Limited	26.32%
3.	Karnataka Bank Limited	18.31%
4.	Yes Bank Limited	7.01%
5.	Mahindra & Mahindra Financial Services Ltd.	1.85%
6.	Ms Sukriti Gupta	0.45%
7.	Mr. Romesh Kumar	0.40%

iii) In the fourth meeting of CoC held on September 16, 2023, the RP apprised the committee about the progress in the CIRP that he had invited the Resolution Plan from prospective Resolution Applicants i.e.,



M/s SPSS Infrastructure Private Limited and M/s Subhlaxmi Investment Advisory Private Limited through an email dated August 5, 2023 and set the last date of Submission of Resolution Plan as September 7, 2023. However, no Resolution Plan was received from such Resolution Applicants therefore in the event of failing to receive Resolution Plans, there was no option left with the Interim Resolution Professional other than to propose liquidation of the Corporate Debtor to the CoC Member.

iv) It was decided by the majority of the CoC members to opt for Liquidation of the Corporate Debtor in the fourth CoC Meeting with 90.75% voting in favour of resolution while 9.25% abstained from voting and 0.45% rejected the resolution. The CoC through its majority rejected the resolution for appointment of the Applicant/ Interim Resolution Professional as the Liquidator.

v) The time period of 180 days for completion of CIRP ended on October 8, 2023 (in view of earlier exclusion allowed till April 12, 2023). Accordingly, the Applicant further seeks exclusion of 4 days from the period of CIRP to legitimise this application for initiation of liquidation. The delay happened only because the Applicant had to wait for the approval from CoC members to the above-mentioned resolution, which was ultimately concluded on October 11, 2023 and voting results circulated on October 12, 2023. The CoC members being the Financial



Intuitions took time in approving the same as they have to follow stringent policies for obtaining such approval. If such exclusion is not granted the voting held on October 11, 2023 and Voting result circulated on October 12, 2023 will be null and void as there was no CIRP proceedings prevailing during that period.

vi) In compliance of Regulation 39B of Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 the best estimate to meet the liquidation cost was discussed and further on the issue of exploring compromise or arrangement, the CoC informed the Resolution Professional that in their view they are recommending to go for compromise and arrangement during the period the application to liquidate the corporate debtor is pending before the Adjudicating Authority.

vii) On the aspect of the sale of corporate debtor as a going concern as provided under Regulation 39C of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 CoC resolved to first explore sale of the Corporate Debtor as a going concern.

viii) A copy of the minutes of the 13th meeting of the CoC is annexed as Annexure A-4. The relevant resolutions passed are as follows:



a. Regulation 39B: “RESOLVE FURTHER THAT the shortfall difference between estimated liquid assets available and the estimated liquidation costs shall be contributed by the financial creditors as per their admitted claims. Moreover, the financial creditors shall contribute the cost incurred on an actual basis.”

“RESOLVE THAT in term of Regulation 39BA of CIRP Regulations, 2016 the CoC be and is hereby recommend the Interim Resolution Professional to explore the possibility of compromise or arrangement as referred to under sub-regulation (1) of Regulation 2(B) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 during the period the application to liquidate the corporate debtor is pending before the Adjudicating Authority.”

b. Regulation 39C: “RESOLVED THAT the Committee of Creditors hereby recommend that the Liquidator may first explore sale of Swani Motors Services Private Limited, Corporate Debtor, as a going concern under clause (e) or clause (f) of Regulation 32 of IBBI (Liquidation Process) Regulations, 2016.”

“RESOLVED FURTHER THAT the Liquidator be and is hereby authorized to sell the Swani Motors Services Private Limited Corporate Debtor, as going concern, in consultation with the Stakeholders Consultation Committee (SCC).”

c. Regulation 39D: “RESOLVED THAT, in accordance with Section 39(D) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the liquidator's fees as prescribed under Regulation 4b of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 is be and are hereby approved.”

3. We have heard the learned counsel appearing on behalf of the Resolution Professional, and have perused the relevant material available on record carefully.

4. It is noted that the Corporate debtor was admitted into CIRP vide order dated 28.10.2022. The CoC consists of members, i.e., State Bank Of India, Kotak Mahindra Prime Limited, Karnataka Bank Limited, Yes Bank Limited, Mahindra & Mahindra Financial Services Ltd., Ms Sukriti Gupta and Mr. Romesh Kumar. It is



observed that the present Application has been filed under sub-section (1) of the section 33 of the Code for the initiation of the liquidation process of the Corporate Debtor. The Resolution Professional had published Form-G, however, no Resolution plan was received by the Resolution Professional from the prospective Resolution Applicants. Thereafter, the CoC in its 4th CoC meeting dated 16.09.2023 passed a resolution for liquidation of the corporate debtor.

5. The CoC resolved and approved the estimated liquidation cost. Furthermore, the CoC resolved to explore for compromise and arrangement and to try for sale of the corporate debtor as a going concern. Further, the CoC also passed a resolution that the difference between the estimated value of liquid assets and the estimated liquidation costs shall be borne by the Committee of Creditors. As such, the application deserves to be allowed.

6. Considering the above facts and circumstances of the case and taking into account the guidelines of IBBI, dated 18.07.2023 that IP other than the IRP/RP may be appointed as liquidator in all the cases where a liquidation order is to be passed, henceforth, we considered the name of Mr. Chand Ji Tikku having Registration Number IBBI/IPA-003/IP-N000125/2017-2018/11389 email: chand11tikku@gmail.com from the panel of the IBBI list for appointment as liquidator. He will file his consent for being appointed as liquidator.



7. In view of the satisfaction of the conditions provided under section 33 of the Code, the Corporate Debtor, i.e., Swani Motors Services Private Limited, is directed to be liquidated in the manner as laid down in Chapter III of the Code.

8. Accordingly, by exercising our power under sub-section (1) of section 33 of the Code we pass the following Order:

(i) The Corporate Debtor Swani Motors Services Private Limited shall be liquidated with immediate effect in the manner provided under Chapter III, Part II of the Code and other relevant rules and Regulations, including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date, enjoined upon him. Accordingly, we allow IA(Liq.) 2768 of 2023.

(ii) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.

(iii) According to section clause (b) of sub-section (4) of section 34 of the Code and in view of guidelines of IBBI letter dated 18.07.2023 of IBBI, we hereby appoint Mr. Chand Ji Tiku having Registration No. IBBI/IPA-003/IP-N000125/2017-2018/11389 **as a liquidator** of the corporate debtor i.e. Swani Motors Services Private Limited. The liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

(iv) All the powers of the Board of Directors, key managerial persons, and the partner of the corporate debtor, as the case may be, hereafter cease to exist and shall vest with the liquidator.



- (v) The personnel of the Corporate Debtor are directed to extend all cooperation to the liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- (vi) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the corporate debtor. The liquidator has the liberty to institute a suit and other legal proceedings on behalf of the corporate debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.
- (vii) This Order shall be deemed to be notice of discharge to the officers, employees, and workmen of the corporate debtor except to the extent of the business of the corporate debtor continued during the liquidation process by the liquidator.
- (viii) This Adjudicating Authority directs the liquidator to issue a public announcement stating that the corporate debtor is in liquidation. The liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, RPFC etc., who are likely to have any claim upon the corporate debtor so that the authorities concerned are informed of the liquidation order timely. The liquidator will also provide a copy of this order to the trade unions/employee associations of the corporate debtor so that the workman/employees could also be informed of this liquidation order through their association.
- (ix) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the corporate debtor, the resolution professional, and the liquidator by speed post as well as by email within one week from the date of this order.



(x) The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator namely, forthwith.

(xi) Further, the exclusion of 4 days from the CIRP period is allowed.

9. Accordingly, IA(Liq.) 2768 of 2023 in CP(IB) 264 of 2019 is disposed of.

Sd/-

(Kaushalendra Kumar Singh)
Member (Technical)

Sd/-

(Khetrabasi Biswal)
Member (Judicial)

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