

MEMO OF PARTIES

BAL PRATAP SRIKENT

D- 248, 2nd Floor,

Defence Colony, New Delhi- 110024

...Applicant / Operational Creditor

VERSUS

M/s INTEGRATED CAPS PVT. LTD.

42, Anand Lok,

New Delhi-110049

...Respondent/ Corporate Debtor

ORDER

1. This is an application filed by the Resolution Professional Mr. Yogesh Kumar Gupta, IP Registration no. IBBI/PA-003/IP-N00078/2017-18/10701 under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the “Code”) for issuance of directions for liquidation of the corporate debtor, M/s Integrated Caps Pvt. Ltd.

2. The facts in brief are that the operational creditor, Sh. Bal Pratap Srikent had filed an application bearing no. IB 74(ND)/2018 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this tribunal vide order dated 06.03.2018 and Mr. Yogesh Kumar Gupta appointed as Interim resolution Professional (IRP).

3. Thereafter, in terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) the said Interim Resolution Professional made a public announcement in FORM-A on 15.03.2018 in Pioneer (English Edition) and Pioneer (Hindi Edition). The Public announcement was also uploaded in the website of Insolvency and Bankruptcy Board of India (IBBI).

4. Thereafter in the first meeting of Committee of Creditors held on 18.04.2018 in which all the agenda items were deferred as the FC namely Syndicate Bank, which held

over 95% voting rights, sought time to seek instructions from its head office. However the CoC members agreed in principle for the appointment of IRP as the RP, subject to approval for his remuneration by the competent authority of the Syndicate Bank.

5. That IRP convened 2nd CoC meeting wherein the Syndicate Bank raised the proposal for change in the IRP. That in the third meeting of the CoC held on 07.05.2018, the notice and agenda were duly circulated to all the members and other participants of the CoC with the details of the new Resolution Professional. The change in resolution professional as proposed by the Syndicate Bank was approved by the CoC.

6. Thereafter the Syndicate Bank, Financial Creditor filed an application before the Hon'ble Tribunal for the change in the RP on 09.05.2018 and on 11.06.2018, the order was pronounced by the Hon'ble Tribunal where the application for appointment of a new Resolution Professional was dismissed.

7. Thereafter in the meeting of Committee of Creditors held on 25.06.2018 the IRP was appointed as Resolution Professional (RP).

8. That the Resolution Professional (RP) had taken custody and control of the Assets of the Corporate Debtor M/s Integrated Caps Pvt. Ltd. i.e. Land and building located at Industrial Plot No.92, Block no. C, New Okhla Industrial Development Area, Gautam Budh Nagar Ghaziabad District (Unit No. 1, total land area of the property is 1000 sq. mtr.) and land & building situated at Industrial Plot No.93-94, Block no. C, New Okhla Industrial Development Area, Gautam Budh Nagar Ghaziabad District (Unit No.2, total land area of the property is 2000 sq. mtr.) and building located at Industrial Plot No.95-97, Block no. C, New Okhla Industrial Development Area, Gautam Budh Nagar Ghaziabad District (Unit No. 3, total land area of the property is 3000 sq. mtr.) along with Plant & Machinery installed therein. Other fixed assets consist of Plant & Machinery, furniture, Office equipment, Lab equipment,

vehicles, Generator, Fire Fighting Equipment, Electrical equipment and Computer.

9. Thereafter in the 3rd meeting of CoC held on 07.05.2018, CoC considered and agreed for the appointment of two valuers. Subsequently two valuers were appointed Mr. Suresh Chander Vohra, registration no. CATT/4/98-99 and Mr. Gagan Ghai, fellow no. F-23884. As per their valuation report, the book value as on 06.03.2018 is Rs. 49,65,00,002/-, fair value is Rs. 18,93,80,892/- and estimated liquidation value of the above specified assets of M/s Integrated Caps Private Limited is Rs. 14,50,50,052/-.

10. That the CIRP in the present matter is expiring on 02.11.2018 and due to non-receipt of a Resolution Plan the CoC in its meeting dated 10.07.2018 has passed the following resolution:

a) That the liquidation of the Corporate Debtor, is recommended;

- b) That the RP is requested to file application before the Adjudicating Authority under Section 33 of the Code;
- c) That the Mr. Pankaj Khetan recommended to be appointed as liquidator.”
- d) That the liquidator be paid professional fee as per provisions of Regulation 4 of the IBBI Liquidation Process Regulations”
- e) that CIRP expenses of Rs. 14,13,060/- incurred by the Resolution Professional is approved.

11. Meanwhile, since 180 days of moratorium was expiring, an application was filed by the resolution professional for extension of CIRP period and upon such application filed by the RP further time of 61 days was granted vide order dated 23.07.2018.

12. Thereafter in the 7th meeting of CoC held on 24.09.2018 it was decided that since no resolution plan has been received in respect of the corporate debtor and as very little time is left for completion of the CIRP period, the CoC with

majority vote of 96.74% of voting share decided to liquidate the corporate debtor due to non-receipt of any resolution plan.

13. The relevant portion of minutes of 7th meeting of CoC dated 24.09.2018 has been reproduced below:

“ITEM NO. 4

Discuss on Resolution process and way forward

The RP apprised the COC members that last date of extended CIRP period is 2nd November 2018 and the resolution plan, if any, has to be submitted to Hon’ble NCLT at-least 15 days before the end date of CIRP.

However, with no resolution plan in sight as yet and little time left, the COC deliberated that the liquidation is only remedy in this case now.

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MATTERS TO BE VOTED UPON

RP proposed the following item for voting to the COC members: -

1. To approve filing application for liquidation with Hon'ble Adjudicating Authority i.e. NCLT, Principal Bench

The matter was discussed in detail and after discussion the following resolution was passed unanimously:

'RESOLVED THAT an application for liquidation be filed with Hon'ble Adjudicating Authority, i.e. National Company Law Tribunal, Court IV, New Delhi.'

14. The voting sheet of the 7th meeting of CoC held on 24.09.2018 has been placed on record which shows that approval for filing application for liquidation with adjudicating authority was passed with 100% votes mainly consisting of Syndicate Bank with 96.74% of total voting share and HCCBI with 3.26% of the total voting share. Be that as it may, the CoC has resolved by 100% voting majority to liquidate the corporate debtor as there was no resolution plan.

15. In the factual background and in the absence of any resolution plan and for want of time beyond statutory CIRP period; there is no other alternative but to order in conformity with the required majority decision of the CoC for liquidation of the corporate debtor under Section 33 of the Code.
16. As a result, application is allowed by ordering liquidation of the corporate debtor, namely M/s Integrated Caps Pvt. Ltd. in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:
- a. Mr. Pankaj Khetan holding registration no. IBBI/IPA- 002/ IP-N00010/ 2016-17/ 10014, is appointed as Liquidator in terms of Section 34(1) of the Code;
 - b. Mr. Pankaj Khetan directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

- c. The 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;
- d. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- e. This order is deemed to be a 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;
- f. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.

g. The Liquidator shall submit a 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.

h. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

I. C.A. 93/2018 filed in IB 74(ND)/ 2018 is disposed of in the aforesaid terms.

Sd/-

(DR. DEEPTI MUKESH)

MEMBER(JUDICIAL)

