

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**IA No. 938/2020  
In  
CP (IB) No. 254/Chd/Hry/2019  
(admitted)**

**Under Section 33(1)(a) & 33(2) of  
IBC, 2016**

**In the matter of:**

Abhimanyu Jaiswal

....Petitioner/Operational Creditor

Versus

SPG Global Distribution Private Limited

....Respondent/Corporate Debtor

**And in the matter of IA No. 938/2020**

SPG Global Distribution Private Limited  
Through its Resolution Professional Mr. Vijay Kumar  
having its registered address as  
B-363, 364 & 365  
Nehru Ground, NIT Faridabad  
Haryana-121001, India

...Applicant

Vs.

- 1. Chander Shekhar Kukreja**  
(Ex-Director of the corporate debtor)  
having its registered address at  
House No. 77/1242, Ward No. 13,  
Near Rujhani Gurudwara  
Jawhar Nagar, Camp Palwal  
Haryana-121102
- 2. Nisha Kukreja w/o Dileep Kumar Singh**  
(Ex-Director of the corporate debtor)  
having its registered address at

IA No. 938/2020  
In  
CP (IB) No. 254/Chd/Hry/2019  
(admitted)

House No. 77/1242, Ward No. 13,  
Near Rujhani Gurudwara  
Jawhar Nagar, Camp Palwal  
Haryana-121102

...Non-applicants

**Order delivered on: 07.08.2023**

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present :**

For applicant : Ms. Nishi Chaudhary, Advocate

For respondent : Mr. GS Sarin, Practicing Company Secretary

**Per: Subrata Kumar Dash, Member (Technical)**


**ORDER**

**IA No. 938/2020**

This application has been filed on behalf of the Resolution Professional under Section 33(1) (a) & 33(2) of the IBC, 2016, read with Rule 11 of NCLT Rules, 2016, seeking, inter alia, liquidation of the corporate debtor.

2. It has been submitted by the applicant as follows:

- a) The application under Section 9 of IBC was admitted by this adjudicating authority vide order dated 06.12.2016, and thereby moratorium was declared, and Mr. Divyanshu Mishra was appointed as the Interim Resolution Professional. In the 1st CoC meeting dated 04.01.2020, Mr. Vijay Kumar was resolved to be appointed as Resolution Professional, and the same was also affirmed vide order dated 21.01.2020 of this




adjudicating authority. The resolution professional invited claims from the financial and operational creditors through a public announcement made on 09.12.2019.

- b) A total of claims of 1 financial creditor amounting to Rs.94,85,279.34/- along with 2 operational creditors amounting to Rs.42,957,880/- were filed and thereby admitted.
- c) The resolution professional discussed with the COC members in the 4th COC meeting held on 04.11.2020 to file a liquidation application without any EOI and valuation and decided unanimously to move a liquidation application. The COC members authorized the RP and the legal counsel to file a liquidation application as per the provisions of section 33(1)(a) & 33(2) of the Insolvency and Bankruptcy Code, 2016. All the COC members present in the meeting via video conferencing comprising 100% gave their consent to appoint Mr. Vijay Kumar, Liquidator of corporator at a fee specified in Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 (Annexure A-1).

3. It has been jointly submitted by Non-Applicants 1 & 2, Ex-Directors of the Corporate Debtor that:

- a) Mr. Ramesh Singh Rawat was in the physical possession of the first floor of the property from 31.05.2018 against the agreement for sale dated 31.03.2018 of the first floor of a total consideration of Rs.75,00,000/- with simultaneous handing over of the possession, with the disclosure that the



said property is a mortgage in the bank. However, a dispute arose between the third party, i.e. Mr. Ramesh Singh Rawat, and the corporate debtor, wherein the third party filed a criminal case under Section 420 and Section 406 against the non-applicant on 21.08.2020. Attempts have been made to settle the dispute, and a settlement agreement dated 31.03.2018 is attached as Annexure R-1 of the reply and simultaneously, cheques of Rs. 30,40,000/- were issued by the guarantor in court, with proceedings pending before the court. A deal has been initiated between the parties, including the non-applicant, which provided for the building to be given to the third party at Rs.1.38 Cr. in total, along with other payments.

- b) The non-applicant directors have submitted that there is a justifiable need to extend the time to settle the bank matter. It is stated that the corporate debtor, i.e., SPG Global Distribution Private Limited, do not have any payments to pay to anyone except the said building (the market value of the said building is Rs. 2 Cr. at present). Thus, the corporate debtor in this way, wants to save the company from insolvency proceedings so as to run the company again.
- c) It is further stated that they have submitted the one-time proposal to DCB Bank @ Rs. 70,00,000/- with submission of settlement letter/NOCs wherein all other liabilities of OC, IRP/RP fees have been settled by the corporate debtor, & non-applicants. It is also submitted that the OTS settlement with the financial creditor and only member of the CoC, i.e.,



DCB Bank Limited in the final stages of acceptance by the Bank. In this connection, we note that this Bench has already passed an order in IA No. 937/2020 dated 02.06.2023, wherein the 3rd party, i.e., Sh. Ramesh Singh Rawa was directed, to hand over the disputed property to the Resolution Professional. On an appeal against our order, the Hon'ble NCLAT in its order dated 14.07.2023 in ***Ramesh Singh Rawat Vs. SPG Global Distribution Pvt. Ltd.*** CA(AT) (Insolvency) No. 872/2023 in IA No. 2975/2023 has directed that the status quo be maintained with regard to the said asset. We are of the view that this will not come in the way of the liquidation process. We further note that sufficient time has elapsed since the OTS proposal was submitted before the bank, and no positive result in this regard has materialized. Furthermore, the only asset of the corporate debtor is under dispute. In view of such facts, there is no reasonable possibility of a resolution. We are conscious of the fact that application, IA No. 1338/2023 is pending with a prayer, inter alia, that there is scope of a settlement with the creditor. In this context, we observe that the said settlement can also take place during liquidation proceedings also, and this can't be the justification for delaying the liquidation proceedings.

4. Now, coming to the merit of the application, before considering the prayer, we would like to refer the Section 33(2) of IBC, and the relevant provision is reproduced below:

*"Section 33(2): Initiation of liquidation*

*xxxxx*

*(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 [approved by not less than sixty-six percent, of the voting*

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*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).*

*[Explanation. - For the purpose of this sub-section, it is hereby declared that the Committee of Creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of Section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.*

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5. In this case, the Resolution Professional is not in possession of the corporate debtor's property, and the present liquidation application is filed without issuing any EOI and carrying out the valuation exercise. It has been approved by the CoC with a 100% voting share.

6. We have carefully considered the submissions made in the application by the Resolution Professional and have also perused the records.

7. The CoC has ratified the sale of the corporate debtor as a going concern and also the liquidation cost in its 6th CoC meeting held on 11.11.2020

8. In the 6th meeting of CoC held on 11.11.2020, the present Resolution Professional has been resolved to be appointed as Liquidator. However, in view of the circular of IBBI No. Liq-12011/214/2023-IBBI/840 dated 18.07.2023, this bench appoints Mr. Pramod Kumar Mishra as liquidator and is hereby requested to file his consent within 7 days of this order.

9. The Law Research Associate of this Tribunal has checked the credentials of Mr. Pramod Kumar Mishra. His AFA is valid uptill 24.04.2024 and there is nothing adverse found against him. In view of the above, we appoint Mr. Pramod






Kumar Mishra, bearing Registration IBBI/IPA-001/IP-P-02669/2022-2023/14099, Mobile No. +91-9810702519, as the Liquidator of the petitioner company.

10. In view of the satisfaction of the conditions provided under Section 33 of the Code, the Corporate Debtor, i.e. **SPG Global Distribution Private Limited**, is directed to be liquidated in the manner as laid down in Chapter III of the Code.

11. Accordingly, by exercising our power under Section 33(2) pass the following order:-


- i. The Corporate debtor is liquidated with immediate effect in the manner provided under Chapter III Part II of the IBC 2016;
- ii. Mr. Pramod Kumar Mishra bearing Registration No. IBBI/IPA-001/IP-P-02669/2022-2023/14099, Mobile No. 9810702519 is hereby appointed as liquidator;
- iii. Mr. Pramod Kumar Mishra, shall take over the charge of the entire records and assets of the corporate and perform his duty, as required under the Code and Regulations
- iv. Mr. Pramod Kumar Mishra is directed to file his written consent along with an affidavit within 7 days, stating therein that no disciplinary proceedings have been initiated against him by the Board or the insolvency professional agency;
- v. The liquidator is directed to take custody and control of the assets and property of the Corporate Debtor with immediate effect and make a public announcement clearly stating that the Corporate Debtor is under Liquidation in terms of Regulation 12 of the Insolvency and



Bankruptcy Board of India (Liquidation Process) Regulations, 2016. No action, however, is to be initiated with respect to the property, which is the subject matter of appeal before the Hon'ble decision of NCLAT till an order in this regard is passed by the Hon'ble authority.

- vi. The Provision of Section 33 (5), (6), and (7) of the IBC, 2016 shall have come into force with immediate effect. 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;
- vii. This Order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- viii. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five (75) days from the Liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- ix. The Liquidator shall file regular progress reports as per Regulation 15 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 every fortnightly thereafter;
- x. The Liquidator shall take necessary legal action to recover the trade receivables and other credits, such as loans and advances from the parties, which are reflected in the latest Balance Sheet of the

Corporate Debtor, if any. This direction is hereby given in concurrence with the jurisdiction prescribed under Section 33(5) of the Code.

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- xi. 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.
  - xii. That all the powers of the Board of Directors, key managerial personnel, and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator;
  - xiii. That the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provisions of Section 19 of the Code shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the Interim Resolution Professional
  - xiv. The liquidator will be entitled to the protection of action taken in good faith as per the provisions of Section 233 of the Insolvency and Bankruptcy Code 2016
  - xv. The Registry is directed to communicate a copy of the Order to the Corporate Debtor immediately;



- xvi. A copy of this order is to be sent by the Registry to the concerned Registrar of Companies (RoC) for updating Master Data. After updating Master Data, RoC shall send a compliance report to the Registrar, NCLT, within a period of 30 days.
- xvii. The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board of India for their record.
- xviii. The Liquidator is at liberty to seek any directions, if need be, from this Tribunal during the Liquidation Process.
12. Thus, IA No. 938/2020 stands allowed and disposed of accordingly.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

August 07, 2023  
JGS/PB