



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH VI

In Re Liquidation of M/S Prudential Hotels Pvt. Ltd
IA (IB) No. 1970/ND/2022 in CP (IB) No.969/ND/2020

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH VI

IA (IB) No. 1970/ND/2022
IN
CP (IB) No. 969/ND/2020

Under section 33(2) of Insolvency & Bankruptcy Code, 2016

IN THE MATTER OF:

M/S COSMIC NFRASOLUTION PVT. LTD.

... FINANCIAL CREDITOR

VERSUS

M/S PRUDENTIAL HOTELS PVT. LTD

... CORPORATE DEBTOR

-AND-

IN THE MATTER OF:

KAILASH CHAND GUPTA

RESOLUTION PROFESSIONAL OF M/S PRUDENTIAL HOTELS PVT. LTD

... APPLICANT

Order pronounced on: 21.09.2022

CORAM:

SHRI P.S.N PRASAD, MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR, MEMBER (TECHNICAL)

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In Re Liquidation of M/S Prudential Hotels Pvt. Ltd
IA (IB) No. 1970/ND/2022 in CP (IB) No.969/ND/2020

Appearances (through hybrid mode):

For the Applicant: Mr. Milan Singh Negi and Mr. Nikhil Kumar Jha, Adv(s)

ORDER

PER- RAHUL BHATNAGAR, MEMBER (TECHNICAL)

1. This is an application filed by the Resolution Professional, Mr. Kailash Chand Gupta under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC, 2016/Code") for issuance of directions for liquidation of Corporate Debtor, M/s Prudential Hotels Pvt. Ltd.
2. The facts in brief as stated in the application are as under: -
 - I. That, the Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") of the Corporate Debtor was initiated vide order dated 01.10.2021 passed by this Hon'ble Tribunal and appointed Mr. Rahul Jain as the Interim Resolution Professional.
 - II. That, in the first COC meeting held on 03.11.2021 the applicant was appointed as Resolution Professional by the CoC members. The said appointment was further confirmed by this Hon'ble Tribunal vide order dated

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11.01.2022.

- III. The Resolution Professional proposed to hold the second CoC meeting on 03.12.2021 however, on the said date the meeting could not be held due to want of quorum and the meeting was adjourned to 04.12.2021. Even on 04.12.2021, the quorum was not present and the applicant had no other option but to cancel the meeting. Hence, no agenda items were taken up in the said proposed meeting of the CoC
- IV. That, the RP proposed to hold the third meeting of the CoC on 31.01.2022, however, on 31.01.2022, the said meeting could not be held for want of quorum. The Sole CoC member had showed his inability to attend the said meeting, which was adjourned to 01.02.2022, however on the said date also the meeting could not be held due to want of quorum.
- V. That, the fourth meeting of the CoC was held on 21.02.2022. As the sole member of the CoC had failed to attend the last two CoC meetings, the Applicant enquired and requested the sole CoC member to deliberate upon the way forward to conduct the CIRP in view of the strict timelines to be adhered to as per the Code. Upon deliberations and discussion, the representative of the Sole CoC member informed that they had looked into the

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balance sheets of the corporate debtor and have ascertained that the instant CIRP may not be fruitful, the CoC further indicated that they do not wish to bear the CIRP cost any further and in terms of the powers enumerated with the CoC under the Code, the CoC instructed the Resolution Professional to bring an agenda for liquidation of the corporate debtor in the next meeting of the CoC

- VI. That, in view of the instructions of the CoC, the Applicant herein placed the agenda for initiation of liquidation process of the CD in the fifth meeting of the CoC held on 10.03.2022, in accordance with provisions of the Section 33(2) of the Code. The Applicant proposed that if the agenda for liquidating the Corporate Debtor is approved, the Resolution professional shall be eligible to become the Liquidator in terms of Section 34 of IBC. The said agenda was placed for voting. In addition to above, as required under Regulation 39B of IBBI CIRP Regulations, 2016, the CoC deliberated and discussed the estimated Liquidation cost upon such deliberations and discussions, the Liquidation cost is estimated at Rs. 4,45,000\ - (including the Liquidator Fee) for first six months. The above-mentioned voting agendas were voted upon in physical form by the CoC member during the fifth CoC meeting

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dated 10.03.2022, whereby the CoC approved the said agendas with 100 percent voting share.

VII. That, the Applicant has also placed on record consent form to act as the Liquidator in the present case.

VIII. That, in view of the facts and circumstances mentioned hereinabove, the Applicant is seeking for initiation of liquidation process of the Corporate Debtor in terms of Section 33(2) of IBC, 2016.

3. We have gone through the application filed by the applicant / Resolution Professional. The present application is filed under section 33(2) of the Insolvency and Bankruptcy Code. The CoC has expressed its opinion in the 5th CoC meeting held on 10.03.2022 that the CoC had looked into the balance sheets of the corporate debtor and have ascertained that the instant CIRP may not be fruitful, the CoC further indicated that they do not wish to bear the CIRP cost any further and in terms of the powers enumerated with the CoC under the Code, the CoC instructed the Resolution Professional to bring an agenda for liquidation of the corporate debtor. Therefore, this Tribunal sees no merit in interfering with the commercial wisdom of the

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CoC.

4. In light of the above, the application is **allowed** by ordering liquidation of the corporate debtor, namely M/s. Prudential Hotels Private Limited with following directions:
- a. That Mr. Kailash Chand Gupta, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
 - b. That Mr. Kailash Chand Gupta, holding Registration No. IBBI/IPA-001/IP-P-02071/2020-2021/13205 is appointed as the Liquidator in terms of Section 34(1) of the Code;
 - c. 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 a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
 - e. This order shall be deemed to be notice of discharge to the



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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 the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
- g. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- h. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- i. The Liquidator shall submit 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)

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Regulations, 2016;

- j. Copy of this order be sent to the financial creditors, corporate debtor, CoC members and the Liquidator for taking necessary steps;
- k. The CoC is directed to pay the remuneration and expenses of the Applicant including that of professional advisors subject to the provisions of IBC Code, 2016 and CIRP Regulations, 2016.
1. I.A. 1970/ND/2022 filed in IB- 969/ND/2020 is disposed of in terms of the aforesaid terms.

Let a copy of this order may be served to the parties concerned

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(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

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