

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI COURT – VI**

**ITEM NO. 701**  
**IA/5317/2022**  
**In IB-1117/ND/2020**

**IN THE MATTER OF:**

**M/s. Kundan Mal Roop Chand Jewellers Pvt. Ltd.**

**V/s.**

**M/s. Delhi Diamonds Pvt. Ltd.**

**Order under Regulation 45(3)(a) of the IBBI (Liquidation Process)  
Regulations, 2016.**

**Order delivered on 04.07.2023**

**CORAM:**

**SHRI. P.S.N PRASAD, HON'BLE MEMBER (JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Order pronounced in open Court vide separate sheets.

IA/5317/2022 stands allowed.

**Sd/-**

**(Rahul Bhatnagar)**  
**Member (Technical)**

**Sd/-**

**(P.S.N Prasad)**  
**Member (Judicial)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI  
BENCH-VI**

**I.A- 5317/ND/2022  
IN  
CP(IB)-1117/ND/2020**

*(Under Regulation 45(3) (a) of the Insolvency and Bankruptcy  
Board of India (Liquidation Process) Regulations, 2016)*

**In the matter of:**

M/s. Kundan Mal Roop Chand Jewellers Pvt. Ltd.

.... Petitioner/Financial Creditor

**VERSUS**

M/s. Delhi Diamonds Pvt Ltd.

..... Corporate Debtor

**In the matter of:**

M/s. Delhi Diamonds Pvt Ltd.

Through its Liquidator

Ms. Deepa Gupta

B-2/110, Sector -16, Rohini

New Delhi- 110085

.... Applicant



**Coram:**

**Shri Rahul Bhatnagar (Member Technical)**

**Shri P.S.N Prasad (Member Judicial)**

**Appearance**

**For the Applicant:** Mr. Lokesh Pathak

**ORDER**

**PER: P.S.N PRASAD, MEMBER (JUDICIAL) &**

**RAHUL BHATNAGAR, MEMBER (TECHNICAL)**

**Date of pronouncement: 04.07.2023**

1. This application bearing No. I.A. 5317/ND/2022 in CP(IB) 1117/ND/2020 has been filed by the Liquidator under Regulation 45(3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 praying for the following:

- a. *Pass an order for closure of the Liquidation proceedings of the Corporate Debtor under Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process), Regulations 2016;*
- b. *Pass any other order as may be deemed fit by this Hon'ble Tribunal under the facts and*



*circumstances of the present case and in the interest of justice.*

- 2.** To put it briefly, the facts of the case are that the petition for initiating CIRP was admitted by this Tribunal vide order dated 03.05.2021 and Ms. Deepa Gupta, Insolvency Professional was appointed as the Interim Resolution Professional.
- 3.** That the IRP, in order to discharge her duties and to comply with Section 15 of the Code read with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations ("CIRP Regulations"), 2016, made the public announcement in Form-A, in Business Standard newspaper on 06.05.2021 inviting the claims with proofs from the creditors of Corporate Debtor in accordance with the provisions of the Code.
- 4.** That the IRP verified the claims received by her office and constituted the Committee of Creditors ("CoC").
- 5.** That the IRP after constituting the CoC, conducted the first meeting of the CoC which was scheduled and



convened on 02.06.2021 and the CoC appointed Ms. Deepa Gupta as the Resolution Professional of the Corporate Debtor with 100% votes. The appointment of Ms. Deepa Gupta was communicated to this Tribunal on 07.06.2021.

**6.** That the Resolution Professional in view of the provisions of the Code and with the approval of the members of Committee of Creditors in the third CoC meeting held on 20.07.2021, called for Expression of Interest (EoI) in FORM G as provided under Section 25(2)(h) of the IBC, 2016 read with Regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The said EoI (Form G) dated 24.07.2021 was published on 24.07.2021.

**7.** That pursuant to the Form G published by the Resolution Professional dated 24.07.2021, the Resolution Professional received EoI from 5 Prospective Resolution Applicants (PRA). Accordingly, with the consent of the members of CoC, the Resolution



Professional requested the PRAs to submit the Resolution Plan to the Resolution Professional on or before 22.09.2021.

- 8.** That no Resolution Plan was submitted by any of the PRAs till the last date for submission of Resolution Plan; however, the date was later extended to 27.09.2021 on request of one of the PRAs to submit the Resolution Plan.
- 9.** That in the 5<sup>th</sup> meeting of the CoC held on 01.10.2021, the Resolution Plan submitted by one of the Prospective Resolution Applicant namely Mr. Gaurav Kaladiya was placed before the members of the CoC for discussions.
- 10.** That as 180 days of CIRP of the Corporate Debtor were expiring on 30.10.2021, the CoC requested the Resolution Professional to move an application before this Tribunal for extension of CIRP of the Corporate Debtor. Accordingly, the said issue was discussed amongst the members of CoC in their 5<sup>th</sup> meeting, wherein the members of the CoC unanimously voted in



favor of extending the period of the CIRP for a period of 30 days.

**11.** That accordingly, the Resolution Professional moved an application bearing IA No. 1117 of 2021 before this Tribunal for extension of time for a period of 30 days. The said application was listed before this Tribunal on 27.10.2021 and this Tribunal allowed the prayer of the Resolution Professional and extended the period of CIRP of the Corporate Debtor for a period of 30 days i.e. till 29.11.2021.

**12.** That in 6<sup>th</sup> meeting of the CoC held on 25.11.2021, the Resolution Plan submitted by Mr. Gaurav Kaladia was placed before the members of the CoC for voting as decided in the 5<sup>th</sup> meeting of the CoC, however, the members of the CoC voted in negative, and the Resolution Plan submitted by the Resolution Applicant was rejected by the members of the CoC by 100% majority. Since the Resolution Plan was rejected by the members of the CoC, the members of the Committee of Creditors then discussed the agenda regarding the



Liquidation of the Corporate Debtor. The said agenda was placed before the members of the CoC and was approved by a majority of 100% members present.

**13.** That in view of the consent received by the Resolution Professional to act as the Liquidator of the Corporate Debtor, the CoC in the said meeting also approved the appointment of the Resolution Professional to act as the Liquidator for the Corporate Debtor.

**14.** That the members of the CoC further resolved that after the appointment as the Liquidator for the Corporate Debtor, the Liquidator shall first explore the sale of the Corporate Debtor as a going concern or sale of the business of the Corporate Debtor as a going concern in view of Regulation 39C of the Insolvency and Bankruptcy Board of India (Resolution Process for Corporate Persons) Regulations, 2016 of the Code.

**15.** That Application bearing No. 5556/2022 was filed before this Tribunal for Liquidation of the Corporate Debtor. The aforesaid Application was heard and this



Tribunal vide its order dated 17.02.2022 allowed the application for the Liquidation of the Corporate Debtor and appointed Ms. Deepa Gupta as the Liquidator for the Corporate Debtor.

**16.** That on being appointed as the Liquidator of the Corporate Debtor, the Applicant issued public announcement in requisite Form B in view of the provisions of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 on 24.02.2022 in the newspapers Business Standard (Both Hindi and English). Pursuant to Form B published by the Liquidator, claims were received and the details of the stakeholders are as under:

**Financial Creditors**

S. No.	Name of Stakeholder	Amount Claimed (INR)	Amount Admitted (INR)
1.	Bank of India	99,94,89,025	99,94,89,025



2.	Union Bank of India	25,99,75,034	25,99,75,034
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**Operational Creditors other than Workmen,  
Employees and Government**

S. No.	Name of Stakeholder	Amount Claimed (INR)	Amount Admitted (INR)
1.	Kundanmal Roopchand Jewellers	1,22,58,190	1,22,58,190

**17.** That in accordance with the claims received by the Liquidator, the Liquidator constituted a stakeholder's committee comprising of the members as stated above.

**18.** That based on audited balance sheet as on 02.05.2021 as provided by the ex-management of the Corporate Debtor and the valuation report submitted by the registered valuers appointed during the time of



the insolvency resolution process, the Liquidator formed Liquidation Estate under Section 36 of the Code and took into his possession and custody all the assets of the Corporate Debtor. After forming the Liquidation Estate under Section 36 of the Code, the Liquidator prepared an asset memorandum in view of Regulation 34 of the Regulations comprising all the requisite details and the same was filed along with the Preliminary report submitted before this Tribunal.

**19.** That in the first meeting of the of the Stakeholders of the Corporate Debtor, the Liquidator apprised the stakeholders that in the 6<sup>th</sup> meeting of the CoC, the members of the CoC had approved that the Liquidator shall explore the possibility of sale as a going concern of the Corporate Debtor in terms of Regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution of the Corporate Persons) Regulation, 2016. Accordingly, the said agenda was again discussed in the stakeholders meeting and it was confirmed by the members that Liquidator shall comply



in terms of Regulation 32(e) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The said agenda was placed for voting before the members and the same was approved by the members of the Stakeholders with 100% voting. Extracts of the resolution passed to this effect is reproduced hereto as under:

*Resolved that the consent of the stakeholders to approve the manner of sale as per Regulation 32 (e) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 by appointing the auction professionals and adopting the marketing strategy for maximization of the value of assets.*

**20.** That in view of the decision taken by the stakeholders in the first meeting held on 29.04.2022 to make attempts for sale of the Corporate Debtor as a going concern in terms of Regulation 39 (e) Insolvency and Bankruptcy Board of India (Liquidation process) regulations, 2016, the Liquidator published a sale



notice on 06.06.2022 in the Newspaper namely Business Standard (both Hindi and English) for inviting interest from eligible bidders to participate in the e-auction on 22.06.2022 for the acquisition of the Corporate Debtor. The liquidator identified the following group of assets and liabilities to be sold as a going concern: -

Block A	a) Acquisition of business of the Corporate Debtor as a going concern.  b) Acquisition of all the immovable/ movable/ tangible/ intangible assets of the Corporate Debtor (excluding any contingent asset yet to be realized)  c) Acquisition of all the investments of the Corporate Debtor.
Block B	Assignment of right to realize the Contingent Asset in the form of



	Cash of Rupees 20 lakhs which was seized by the Central Bureau of Investigation (CBI)
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**21.** That in response to the said notice published by the Liquidator, the Liquidator received interests from two parties namely Mr. Gaurav H Kaladiya and Mr. Pramod Khanna who showed their interests to the liquidator qua the Block A as categorized by the Liquidator. No interests were received towards Block B categorized in the sale notice. The Liquidator, after carrying out the preliminary verification of the documents submitted by both the parties, declared both the parties eligible to participate in the e-auction for Block A.

**22.** That the e-auction was successfully completed on 22.06.2022, wherein both the parties participated in the bidding process and after about 22 rounds of bids placed by both the parties, Mr. Gaurav H Kaladiya was declared as the highest bidder with the final bidding price of Rs. 50,82,000/- (Rupees Fifty Lakh Eighty-Two



Thousand). After verification of the documents placed on record, Mr. Gaurav H Kaladiya was declared as successful bidder to acquire the Corporate Debtor. Accordingly, the Liquidator vide an email dated 29.06.2022 issued Letter of Intent to the successful bidder and also called for the payment of the remaining amount.

**23.** That upon receiving the entire payment towards the sale of the Corporate Debtor as a going concern from the successful bidder, the Liquidator issued a Sale certificate to the successful bidder and also handed the possession of the assets lying in the possession of the Liquidator in accordance with the provisions of the Code and the Rules and Regulations framed thereunder.

**24.** That after issuing Sale certificate and handing over the possession of the Corporate Debtor to the Successful bidder, the Liquidator thereafter started to make distribution of the proceeds of sale of assets of the Corporate Debtor in terms of the provisions of the Code



and the Rules and Regulations as prescribed under the Code. The Liquidator in compliance of Section 53 of the Code and after making the payments which were due and payable as prescribed above and making all the payments towards the insolvency resolution process cost distributed the remaining proceeds of sale to the other stakeholders in proportion to their share. The details of the distribution made by the Liquidator is as under:

S. No.	Name of Stakeholder	Share Percentage	Amount (INR)
1.	Bank of India	79%	37,19,133.56
2.	Union Bank of India	21%	9,88,630.44

**25.** That in the third meeting of the Stakeholders of the Corporate Debtor, the members again discussed on the assignment of the asset yet to be realized to the Financial Creditors i.e. the assignments of right to realize the Contingent Asset in the form of Cash of



Rupees 20 Lakhs which was seized by the Central Bureau of Investigation (CBI) which was put to auction as Block B on the Sale notice dated 06.06.2022, however, no bid was received for the same. The Liquidator after the receiving the consent of the members in the First meeting of the Stakeholders had moved an application before the Ld. CBI Court, Rouse Avenue for the recovery of the said amount in the custody of the CBI vide the raid conducted by the CBI at the house of the suspended director of the Corporate Debtor.

**26.** That the Liquidator also informed the members that the matter is pending before the court of Shri Rakesh Kumar-III, CBI Court, Rouse Avenue and the CBI has already filed its reply to the application filed by the Liquidator. The Liquidator informed the members that since the sale proceedings are concluded and there are no assets other than the said amount of Rs. 20 Lakhs which is yet to be realized, the Liquidator proposed to assign the said asset as "Not readily realizable asset" to



the stakeholders so that the closure of the liquidation proceedings can be done and the remaining asset can be realized. The said agenda was put to voting and the same was approved by the stakeholders with 100% majority. Relevant extract of the resolution passed in this regard is reproduced hereto as under:

*“RESOLVED THAT the consent of stakeholders consultation committee members be and is hereby accorded to vote upon assigning the realization of contingent asset i.e. Rs.20 Lacs seized by CBI whose application is pending for realization/ refund before the Rouse Avenue Court, New Delhi and in case the matter is decided in their favour then the amount realized should be distributed between the stakeholders as per their shares. Further it is resolved that after distribution of the amount the liquidator will have no role to play in the realization of the said amount.”*

**27.** That in the third meeting of the stakeholders of the Corporate Debtor, the Liquidator placed the agenda to



discuss upon the expenses payable, liquidation expenses and fees payable to the Liquidator. The said agenda was approved by the members along with the fees of the Liquidator by 100% majority. Resolution passed to this effect is reproduced hereto as under:

*"RESOLVED THAT the consent of stakeholders consultation committee members be and is hereby accorded to vote upon the ratification of fees of legal professional appointed for filing of application before NCLT for closure of liquidation proceedings subjected to lumpsum of Rs. 20,000/- including all other expenses and the amount of Rs. 2,53,040/- payable to the liquidator".*

**28.** That the Liquidator in compliance with the Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 has already submitted the Final report before this Tribunal along with the compliance certificate in Form H.

**29.** In light of the above facts, it is observed that liquidator has completed the sale of Corporate Debtor through e –



auction and distributed entire sale proceeds received from the sale amongst the creditors. Further, no interests were received towards Block-B (Assignment of right to realize the Contingent Asset in the form of Cash of Rupees 20 lakhs which was seized by the Central Bureau of Investigation) categorized in the sale notice. The Liquidator proposed to assign the said asset as "Not readily realizable asset" to the stakeholders so that the closure of the liquidation proceedings can be done and the remaining asset can be realized. The said agenda was put to voting and the same was approved by the stakeholders with 100% majority in the third SCC meeting held on 19.08.2022. Accordingly, the said asset has been assigned to the SCC and the Liquidator has no further role in the realization of the same. Section 54 of the Insolvency & Bankruptcy Code, 2016 read along with Regulation 45 of IBBI (Liquidation Process) Regulations, 2016, says that the liquidator shall submit an application to NCLT for closure of the Corporate Debtor along with the final report and the compliance certificate in Form H to the Adjudicating



Authority for closure of the liquidation process of the Corporate Debtor. Hence, liquidator has filed present application seeking closure liquidation process of the Corporate Debtor.

**30.**The Liquidator has also filed an affidavit dated 24.01.2023, stating that the Liquidation Value of the Corporate Debtor is 46,82,000/- and the Fair Value of the Corporate Debtor is Rs. 49,89,000/- as per the Valuation reports of the four appointed Valuers. The Liquidator has managed to sell the Corporate Debtor as a going concern for Rs. 50,82,000/-, which is above the Liquidation as well as the Fair Value. The Corporate Debtor has an outstanding Financial Debt of Rs. 99,94,89,025/- availed from Bank of India and Rs. 25,99,75,034/- availed from Union Bank of India. No details have been furnished regarding the utilization of the said amount, vis-à-vis repayment of the said debt. The Liquidator must have looked into and considered the same before making this Application for closure of Liquidation Process. Further, the Hon'ble Supreme



Court in the matter of *M/s R.K. Industries (Unit-II) LLP v. M/s H.R. Commercials Private Limited & Anr.*, Civil Appeal No. 7722/2021 and 7731/2021 has held as follows:

*The jurisdiction bestowed upon the Adjudicating Authority [NCLT] and the Appellate Authority [NCLAT] are circumscribed by the provisions of the IBC and borrowing a leaf from Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta and Others<sup>43</sup>, they cannot act as a Court of equity or exercise plenary powers to unilaterally reverse the decision of the Liquidator based on commercial wisdom and supported by the stakeholders. The Court has also observed in the captioned case that “from the legislative history, there is contra-indication that the commercial or business decisions of the financial creditors are not open to any judicial review by the adjudicating authority or the appellate authority.” A similar reasoning has prevailed with Respondent in K. Sashidhar v. Indian Overseas Bank and Others<sup>44</sup> , Committee of Creditors of Amtek Auto Limited v. Dinkar T. Venkatasubramanian and Others<sup>45</sup> , Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another.<sup>46</sup> , Ghanashyam Mishra And Sons Private Limited through the Authorized Signatory v. Edelweiss Asset Reconstruction Company Limited through the <sup>43</sup> (2020) 8 SCC 531 <sup>44</sup> (2019) 12 SCC 150 <sup>45</sup> (2021) 4 SCC 457 <sup>46</sup> (2021) 10 SCC 401 Page 56 of 59 Civil Appeal No.7722 of 2021 and Civil Appeal No.7731 of 2021 Director and Others.<sup>47</sup> and Jaypee Kensington Boulevard Apartments Welfare Association and Others (Supra). The aforesaid view will apply with*



*equal force to any commercial or business decision taken by the Liquidator for conducting the sale of the movable/immovable assets of the Corporate Debtor in liquidation.*

**31.** Considering the facts on record and provision of law, we order that the Liquidation Process of Corporate Debtor stands closed as prescribed under Section 53 of Insolvency & Bankruptcy Code, 2016. Thus, the present Application is allowed.

**32.** Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies, Delhi & Haryana for further necessary action as prescribed under Law and for updating the status of Corporate Debtor.

**SD/-**

**(Rahul Bhatnagar)**  
**Member (Technical)**

**SD/-**

**(P.S.N Prasad)**  
**Member (Judicial)**