

**THE NATIONAL COMPANY LAW TRIBUNAL
“CHANDIGARH BENCH, CHANDIGARH”
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)**

**IA No. 143/2022
IN**

CP (IB) No. 284/Chd/Hry/2019

**Under Section 9 of Insolvency and
Bankruptcy Code, 2016.**

In the matter of:

Joginder Singh

having Proprietorship concern of
M/s JK Viklang Kendra and Surgical House
with its registered office at
27, Super Bazar, Opposite Civil
Hospital, Gurgaon Haryana-122002

...Petitioner-Operational Creditor

Vs.

EHL Healthcare Private Limited

with its registered office at
K-913, Jalvayu Tower Sector-56
Gurgaon, Haryana-122002

...Respondent-Corporate Debtor

And in the matter of:

Sanyam Goel

Interim Resolution Professional

EHL Healthcare Private Limited

with its registered office at
Unit No. 110, First Floor, JMD Pacific Square
Sector 15, Part II, Gurgaon, Haryana-122001

Judgement delivered on: 05.07.2022

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)
Hon'ble Mr. Subrata Kumar Dash, Member (Technical)**

For the Applicant: Mr. G.S. Sarin Practising Company Secretary
with Mr. Sanyam Goel, IRP

For the Respondent : None

Per: Harnam Singh Thakur, Member (Judicial)

JUDGMENT

IA No. 143/2022

The instant application has been filed under Rule 11 of NCLT Rules, 2016 read with Section 60(5) of IBC, 2016, by Interim Resolution Professional seeking the relief that the present petition CP (IB) No. 284/Chd/Hry/2019 as admitted by this Bench vide its order dated 03.02.2022 be cancelled or pass the order for liquidation of the corporate debtor if deem fit and seeking direction that the main applicant or the corporate debtor to pay the expenses incurred by the IRP as well as the reasonable fees of the IRP for the period he has acted as the IRP of the corporate debtor.

2. Brief facts giving rise to filing of the instant application, which is just and necessary for adjudication, are narrated hereunder:

2.1 The CP(IB) No. 284/Chd/Hry/2019 filed on behalf of the operational creditor Joginder Singh Proprietor of JK Viklang Kendra and Surgical House against the corporate debtor for initiating the CIRP under Section 9 of the Code was admitted by this Adjudicating Authority vide its order dated 03.02.2022.

2.2 The IRP has intimated the directors of the Suspended Board of the corporate debtor regarding the commencement of CIRP against the corporate debtor. The IRP has made the requisite compliance and

disclosure on the portal of IBBI and ICSI, IIP as required to be done by IRP. The IRP has made a public announcement in FORM A dated 05.02.2021.

2.3 It is submitted that on 05.02.2022 IRP visited the registered office of the corporate debtor and the same was found to be closed. However, the IRP affixed the notice of CIRP at the premises of the corporate debtor.

2.4 It is further stated on 08.02.2022 IRP sent an email to Mr. Joginder (the operational creditor) on whose instance, the present petition was admitted against the operational creditor by this Bench requesting him to deposit a sum of Rs. 25,000/- as directed by this Bench. However, till date, no reply has been received nor any amount has been credited in the account of IRP to meet out the immediate expenses of CIRP.

2.5 It is averred that the IRP on 09.02.2022 sent the letter to the financial creditors whose names were appearing in the index of charges on the portal of MCA regarding the commencement of CIRP and requested them to submit their claim with the IRP. However, till date, no claim has been received from any of the said financial creditors.

2.6 It is submitted that on 15.02.2022 IRP had a meeting with one of the suspended directors of the corporate debtor with regard to CIRP and to hand over the records of the corporate debtor. Whereby, in the

above-said meeting, it has been stated by the suspended director that presently there have been no assets of the corporate debtor and the record is not traceable as of now because the person in whose custody the records were kept has expired due to Covid-19. However, the director ensured he would try to trace the record and would handover the same to IRP.

2.7 It is further submitted that the corporate debtor has not filed its financial statements with the ROC since its incorporation and no claim has been received by the IRP either from financial creditor or from the operational creditor. Accordingly, IRP is not in the position to constitute a Committee of Creditors.

3. In view of the above facts and circumstances, it is stated that IRP is facing difficulties in carrying out the CIRP of the corporate debtor and the business of the corporate debtor was also not in operation for the last two to three years as per the above-mentioned discussion with Managing Director of the corporate debtor and no assets exists on the name of the corporate debtor as on date.

4. For the above stated directions, the applicant i.e. IRP has relied on *M/s. Lesso Buidltech Pvt Ltd. Vs. M/s. Anjana Strong Doors Pvt Ltd CP-IB-1800/ND/2019*, where the Hon'ble NCLT New Delhi Bench cancelled the CIRP proceedings initiated by them as the operational creditor failed to make the payment of initial expenses of IRP as directed by the Hon'ble NCLT. Further, the applicant also relied on *Sarthak Gupta & Dolly Gupta Vs. MLP*

Developers and Promoters Private Limited CP-IB-238/Chd/Hry/2019, where the Hon'ble NCLT Chandigarh Bench has passed the order of the liquidation of the corporate debtor as no claim was received except of the directors and the related parties of the corporate debtor.

5. After perusal of the record available and considering the submissions made by the learned counsel on behalf of the applicant and IRP, it can be said that there are no assets of corporate debtor available and even IRP has not received any claim from any creditor or other quarter. In these circumstances, the CIR process initiated in the present matter is directed to be cancelled as the operational creditor has failed to make the payment of Rs.25,000/- towards the expenses of IRP. In view of the above mentioned order i.e. *M/s. Lesso Buidltech Pvt Ltd. Vs. M/s. Anjana Strong Doors Pvt Ltd CP-IB-1800/ND/2019* passed by Hon'ble NCLT, New Delhi, Id. Counsel for the operational creditor is directed to pay the above mentioned expenses to the IRP in the matter within next three weeks and the operational creditor is restrained from initiating any proceedings under the IBC for next six months as it has failed to honour the order passed by the Adjudicating Authority vide order dated 03.02.2022 even after a period more than three months . The registry is directed to serve a copy of this order also to Registrar of Companies, NCT of Delhi and Haryana.

Sd/-

(Subrata Kumar Dash)
Member (Technical)

Sd/-

(Harnam Singh Thakur)
Member (Judicial)

July 05, 2022

PB/ASH

IA No. 143/2022

in

CP (IB) No. 284/Chd/Hry/2019