



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No.208
IB-590/ND/2023
IA-31/ND/2025, IA-5625/ND/2024

IN THE MATTER OF:

Kaliber Associates Pvt. Ltd

B-1/12, 2nd Floor, Safdarjung Enclave,
New Delhi - 110029.

... Applicant

Versus

Lion Buildcon Pvt. Ltd.

B-132, S/F, KH No. 776/704/508 Gali No.7,
Hardevpuri Shahdara,
Delhi East Delhi DL-110093

... Respondent

AND IN THE MATTER OF IA-31/ND/2025:

Mr. Gaurav Kapoor,

I2B, Ground Floor, Pocket-3,
Mayur Vihar Phase-I
Delhi-110092

...Applicant

Versus

M/s. Lion Buildcon Pvt. Ltd

B-132, S/F, KH No. 776/704/508 Gali No.7,
Hardevpuri Shahdara,
Delhi East Delhi DL-110093

...Respondent

AND IN THE MATTER OF IA-5625/ND/2024:

Mr. Gaurav Kapoor,

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Versus

M/s. Lion Buildcon Pvt. Ltd

B-132, S/F, KH No. 776/704/508 Gali No.7,
Hardevpuri Shahdara,
Delhi East Delhi DL-110093

...Respondent



Under Section: 7 of IBC, 2016

Order delivered on 29.01.2026

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the Appellant : Adv. Rachit Mittal, Adv. parish Mishra, Adv. Shubham Sonthalia , Adv. Kanishk Raj, Adv. Srishti Agrawaal , Adv. Abhishek Sinha , Adv. Shivansh Bansal

For the Suspended Director : Adv. Binod Kumar Singh

For Respondent :

For RP : Adv B.K. Mishra

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

IA-31/ND/2025: The prayer contained in the captioned application reads thus:

“a. Pass an order for liquidation of Mis Lion Buildcon Private Limited under Section 33 of the Insolvency and Bankruptcy Code, 2016;

b. Appoint the Applicant as the Liquidator under section 34 of the Code.

c. Direct for Publication of the Liquidation order in Newspapers and on the IBBI website;

d. Grant Liberty to make further submissions or file additional affidavits as required;”

2. Ld. Counsel for the Resolution Professional submitted that the CIRP could commence in terms of the order dated 03.07.2024 and when a period much beyond 180 days is over, the Resolution Professional could not receive any expression of interest. In the wake, the CoC could pass resolution with 100% vote share that Corporate Debtor should be liquidated. The relevant excerpt of the resolution reads thus:



ITEM NO B-2: To Discuss and Decide for Liquidation of the Corporate Debtor U/S 33 Of IBC, 2016 and to File Application with The Adjudicating Authority for Approval

The CoC was apprised that the agenda was placed in furtherance to the discussions held in the Agenda Item No. A-7 with reference to further proceeding of the corporate insolvency resolution process of the Corporate Debtor.

Chairman informed the member that Form G has been published pursuant to Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation 2016, as approved by CoC in the 2nd CoC meeting held on 22nd November, 2024 for invitation of fresh Expression of Interest.

However, no EOI was received till the last date of submission of EOI despite interest being shown by parties.

RP apprised the committee that since the Registered Office of the Corporate Debtor were found

to be closed with no operational activity going on at present and no immovable/fixed assets were available with the company. RP further apprised CoC that as no EOI has been received till the last date of submission of EOI i.e. 22nd November, 2024 and looking into the position of Corporate Debtor, the chances and expectation of receiving any Expression of Interest (EOI) and Resolution Plan from any prospective resolution applicant seems to be very less. Therefore, continuing the CIRP will only incur unnecessary cost together with futile effort to expect any Resolution Plan in the matter.

RP further requested CoC Member to deliberate and decide the way forward in the CIRP of Lion Buildcon Private Limited whether to re-issue the EOI or to initiate the liquidation process of the Corporate Debtor.

In this regard, RP invited attention of CoC towards the following provisions of IBC, 2016 relating to liquidation:

"As per Section 33 of the Insolvency and Bankruptcy Code, 2016 (including all the amendments, modifications for the time being in force):

(1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast-track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.



(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 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."

In this regard, Mr. Mohan Lal Jain, authorised representative of Kaliber Associates Private Limited stated that as there is no operational activity going on at present and asset based is very low, the chances of receiving a Resolution plan of the Corporate Debtor is very meagre. Therefore, CoC opined that re-issue of EOI will only incur unnecessary cost together with futile effort to expect any Resolution Plan in the matter. Accordingly, to minimise the unnecessary CIRP

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cost, RP should proceed to file application before Hon'ble NCLT to initiate liquidation process of the CD and inform Hon'ble NCLAT since the matter is subjudice before it.

To Proceed further, RP invited attention of CoC on CIRP Regulations 40D, text of which given below and requested CoC Members to note the observations of RP

"(1) The committee while considering the liquidation of the corporate debtor may consider factors including but not limited to non-operational status for preceding three years, goods produced or service offered or technology employed being obsolete, absence of any assets, lack of any intangible assets or factors which bring value as a going concern over and above the physical assets like brand value, intellectual property, accumulated losses, depreciation, investments that are yet to mature.

(2) Such consideration may be recorded and submitted in the application for liquidation submitted by the resolution professional to the Adjudicating Authority"

The observations/views of the RP on the requirements of Regulation 40D(1) were given as under:

S. No.	Factors to be considered	Remarks
1	Non-operational status for preceding three years	As per the information received from the Suspended Directors of CD, the Company is not in operation. However indirect income in the form of Interest on loan has been earned in the previous financial year 2023-24.
2	Goods produced or service offered or technology employed being obsolete	The Corporate Debtor was engaged in real estate promoters, developers and project management association including civil, mechanical and electrical and all other type of erection, commission projects as well as consultants for the execution of the projects on turnkey basis for equipment of industrial, domestic and other purposes. No activity has been done for past 3 years.



3	Absence of any assets	<p>There is no immovable asset or tangible Current Asset available with the corporate debtor. In Current Asset, no inventory is available. There is only Loan and advances given to:</p> <p>Standard Realtech Pvt Ltd.</p>	
		Amount (Rs.)	Remarks
		1,50,00,000	Advance is outstanding

accorded to initiate liquidation proceedings of Lion Buildcon Private Limited ("Corporate Debtor") and authorise Mr. Gaurav Kapoor, Resolution Professional to file an application for initiation of the liquidation proceedings with the Adjudicating Authority.

RESOLVED FURTHER THAT the committee be and hereby authorised, Mr. Gaurav Kapoor, Resolution Professional to continue to manage the affairs of the corporate debtor including defending the legal cases filed or that may be filed against the Corporate Debtor, until an order of liquidation of the corporate debtor is passed by the Adjudicating Authority.

RESOLVED FURTHER THAT the committee be and are hereby approved the expenses to be incurred for managing the affairs of the Corporate Debtor and for defending such legal cases filed or that may be filed in any court against the Corporate Debtor by any party in relation to the CIRP process of the corporate debtor. The said expenses to be incurred shall be treated, constituted and form part of Corporate Insolvency Resolution Process (CIRP) Cost of Lion Buildcon Private Limited.

RESOLVED FURTHER THAT the Committee hereby authorized Mr. Gaurav Kapoor, Resolution Professional to undertake debit transactions of the said expenses and to do all acts, deeds and matters as may be necessary to give effect to this resolution

The above resolution was approved by the CoC by 100% voting.

3. As can be seen from the provisions of Section 33(2) of IBC, 2016 where CoC decide with 66% vote share to liquidate the Corporate Debtor, this Adjudicating Authority would pass an order in terms of the provisions of Section 33(1) of IBC, 2016. Provisions of Section 33(1) and Section 33(2) of IBC, 2016 reads thus:



“ Section 33: Initiation of liquidation.

***33.** (1) *Where the Adjudicating Authority*

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(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 ¹[approved by not less than sixty-six per cent. of the voting 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).”

4. In the wake of the aforementioned provisions of the code and the resolution passed by CoC we have no option but to order liquidation proceedings. **Ordered Accordingly.**

5. Accordingly, Mr. Gaurav Kapoor having Reg. No: IBBI/IPA-001/IP-P01283/2018- 2019/12002, e-mail ID: Gaurav.Kapoor@icai.org is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process inter alia in terms of the following directions:-

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 (viz. Sections 35, 36, 38, 39 and 41 thereof) and other relevant rules



and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date, enjoined upon him.

- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file a suitable application before this Adjudicating Authority.
- d) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- e) 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.
- f) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company applications during the process of liquidation.
- g) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation. 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.



h) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

i) The Registry is directed to communicate this order to the Registrar of Companies, having jurisdiction over the Corporate Debtor and the Insolvency and Bankruptcy Board of India;

6. It goes without saying that fee of the Liquidator would be payable in terms of the provisions of Section 34 (7) of the IBC, 2016 read with Regulation 4 of IBBI (Liquidation Process) Regulation 2016.

IA-5625/ND/2024: As we have ordered liquidation of the Corporate Debtor, the IA would be pursued by the Liquidator. List on **11.03.2026**.

Sd/-
(REENA SINHA PURI)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

Iqraa/Esha