

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT III
NEW DELHI**

IA/5289(ND)/2020 filed under Section
33(2) of the IBC Code, 2016 in **CP
(IB)-979 (ND)/2019**.

In the matter of M/s. Gupta Marriage Halls Private Limited.

M/s. Punjab National Bank

.... Financial Creditor

Versus

M/s. Gupta Marriage Halls Private Limited

.... Corporate Debtor

In the matter of IA/5289 (ND)/2020 filed under section 33.

Mr. Mahesh Bansal

RP for M/s. Gupta Marriage Halls Private Limited, (CD).

.... Applicant

Order delivered on 4th January 2021.

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Applicant: Mr. Mahesh Bansal (CA), Mr. Ashok Kumar Juneja (Advocate) _____

ORDER

(Through Video Conferencing)

Per. CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL).

1. Under consideration is an Application filed by the Resolution Professional viz., *Mr. Mahesh Bansal* (hereinafter referred as "Applicant"), under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC, 2016") seeking liquidation of the Corporate Debtor viz., *M/s. Gupta Marriage Halls Private Limited* (hereinafter referred as "Corporate Debtor"), based on the resolution passed by the Committee of Creditors in its' 6th CoC Meeting on 02.11.2020. The other prayers made in the Application are:

"b) To pass an Order for appointment of the liquidator of the CD.

c) To pass such other Orders/direction as this Hon'ble Tribunal may deemed fit and proper in the facts and circumstances of the present case."

2. On perusal of this Application, it appears that CP (IB)-979 (ND)/2019 was filed by the Financial Creditor viz., *M/s. Punjab National Bank* (hereinafter referred as "Financial Creditor") against the Corporate Debtor viz., *M/s. Gupta Marriage Halls Private Limited* (hereinafter referred as "Corporate Debtor") under Section 7 of IBC, 2016 R/w Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016) to initiate Corporate Insolvency Resolution Process (hereinafter referred as "CIRP"), declare moratorium and appoint Interim Resolution Professional (hereinafter referred as "IRP"). This Adjudicating Authority vide Order dated 03.09.2019, admitted the Application, initiated the CIRP against the Corporate Debtor and appointed one Mr. Mahesh Bansal as the IRP.
3. It is averred that pursuant to the Order of this Authority which was received by the IRP on 23.10.2019. The 1st meeting of the Committee of Creditors (hereinafter referred as "CoC") was held on 22.11.2019 wherein, it was resolved to appoint IRP namely, Mr. Mahesh Bansal as the Resolution Professional.
4. The 2nd CoC Meeting was convened on 27.12.2019 wherein the approval for publication and eligibility criteria for FORM-G was settled. The FORM -G was published on 28.12.2019 in two newspapers namely "Jansatta" (Hindi) and "Financial Express" (English) and intimated about the same to IBBI and IPA of

ICAI under Section 208 (2) (d) of IBC, 2016. The Resolution Professional on approval of CoC appointed two personnel (i) Mr. Ashok Juneja as Legal Advisor and representer before this Authority (ii) Mr. Ramesh Wadhwa as Consultant to carry out the CIRP Process.

5. Two registered Valuers were appointed for the purpose of valuation of the fixed assets, Financial and Current assets of the Corporate Debtor. It is submitted that the valuation could not be done as the assets of the Corporate Debtor were **not** handed over by the Suspended Directors to the Applicant.
6. The Applicant appointed M/s. Raj Gupta & Co., Chartered Accountants and IBA approved Forensic Auditor, Ludhiana as the Transaction auditor of the Corporate Debtor, however the transaction audit has not been carried out due to non-availability of the information. The RFRP, eligibility criteria, Evaluation Matrix etc., were prepared and were approved in the 2nd CoC Meeting. The Applicant published Form -G, Invitation for Expression of Interest in two newspapers namely 'Financial Express' (English) and 'Jansatta' (Hindi) on 28.12.2019. The Applicant had received 2 responses, till the last date of submission however, none submitted Resolution Plans. The 3rd CoC Meeting was convened on 03.03.2020 wherein, the COC approved the Revised Form-G (with extended timelines) and RFRP, eligibility criteria, Evaluation Matrix etc., remaining unchanged. The revised Form -G was published on 10.03.2020 in two newspapers namely 'Financial Express' (English) and 'Jansatta' (Hindi). The Applicant had received 6 responses, till the last date of submission however, none submitted Resolution Plans. In the 4th CoC Meeting held on 27.05.2020 the CoC deliberated on the publication of Revised Form-G for maximisation of the interests of all the stakeholders and authorised the Applicant to publish. Therefore, the publication of Form -G, Invitation for Expression of Interest was done on 21.06.2020 in two newspapers namely 'Financial Express' (English) and 'Jansatta' (Hindi). In response to the publication 6 responses were received till the last date of submission however, none submitted Resolution Plans.
7. It is noted that this Authority vide Order dated 31.08.2020 extended the period of CIRP for further 90 days from 31.08.2020. The 6th CoC Meeting was convened on

02.11.2020 wherein the Financial Creditor voted against the resolution for publishing Form-G with RFRP, eligibility criteria, Evaluation Matrix etc., remaining unchanged and to authorise the Applicant to file an application for exclusion /extension of 60 days from the CIRP period. The other resolution that was passed by the member of the CoC with 100% voting share to liquidate the Corporate Debtor is as under:

“RESOLVED THAT, since no resolution plans were received, CoC hereby recommends that the Corporate Debtor should be liquidated u/s 33 of IBC,2016 and RP be and is hereby authorised to file an application before the Hon'ble NCLT to obtain necessary orders.”

8. In compliance with Regulations 39B, 39C, 39D of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the Applicant convened 7th CoC Meeting on 18.11.2020 wherein the CoC disapproved the fees of the liquidator proposed by the Applicant and the estimation of liquidation cost as per Regulation 39B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. It is stated that the Applicant is not willing to become liquidator of the Corporate Debtor due to non-sustainability of liquidator's fees and liquidation expenses.

ORDER

9. In view of the facts and circumstances, this Authority is satisfied that the Application **IA/5289(ND)/2020** filed for initiation of Liquidation proceedings against the Corporate Debtor is a fit case for ordering liquidation of the Corporate Debtor namely, *M/s. Gupta Marriage Halls Private Limited* in the manner laid down in the Chapter III of Part II of IBC, 2016 and is **allowed** with the directions as follows: -

I. This Authority appoints the Insolvency Professional Mr. Nitin Narang whose name appears in the list of the Insolvency Professionals provided by the IBBI to NCLT Delhi, having Registration number: IBBI/IPA-002/IP-N00828/2019-2020/12629 E-mail ID: advocatenitinnarang@gmail.com

II. The Resolution Professional viz., *Mr. Mahesh Bansal* is discharged as he has not given consent and is directed to handover the charge to the Liquidator appointed by this Authority.

III. Mr. Nitin Narang is appointed as Liquidator in terms of Section 34 (1) of IBC, 2016. Therefore, all the powers of Board of Directors, key Managerial Personnel, and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested with the Liquidator. The Personnel of the Corporate Debtor are hereby directed to extend all corporations to the Liquidator as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as Liquidator will charge fees for the conduct of liquidation proceedings in the proportion to the value of the liquidation estate assets as specified under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of IBC, 2016.

IV. Mr. Nitin Narang is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

V. Since this Liquidation Order has been passed, no suit or other legal proceedings shall be initiated by or against the corporate Debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub section 6 of the Section 33 of the Code

VI. This Authority makes it clear that Para (V) herein above shall not apply to legal proceedings in relation to such transactions as notified by Central government in consultation with any financial sector regulator.

VII. This liquidation Order shall be deemed to be the notice of discharge to the officers, employees, workmen of the Corporate Debtor

except to the extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

VIII. The Counsel and erstwhile RP are directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana, to the Insolvency and Bankruptcy Board of India and IT Department including Assessing IT Officer of the IT Circle for which the Liquidator shall provide the details of the address.

IX. The Order of Moratorium passed under Section 14 of the IBC, 2016 shall cease to have its effect from the date of the order and that a fresh Moratorium under Section 33(5) of IBC, 2016 shall commence.

X. 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 regulations.

XI. The Liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (I) of the Code.

XII. The Liquidator shall also follow up the pending applications for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

XIII. The Liquidator shall submit a 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) Regulations, 2016.

XIV. Copy of this Order shall be sent by the Counsel and erstwhile RP to the financial creditor, corporate debtor, and the Liquidator for taking necessary steps.

10. In terms of the above, IA/5289(ND)2020 filed in IB-728(ND)/2018 is **allowed**.

11. Order is pronounced through video conferencing.

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CH. MOHD SHARIEF TARIQ
Member (Judicial)