NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

Item No. 220
(IB)-598/ND/2022
IA-6451/2023, IA- 5461/2023

IN THE MATTER OF:

BHOTIKA TRADE & SERVICES PVT. LTD. ... Operational Creditor

Versus

AVINASH EM PROJECTS PRIVATE LIMITED. ...Corporate Debtor

AND IN THE MATTER OF: IA. NO. 5461/ND/2023
(Under Rule11 of NCLT Rules, 2016)
Sudhir Kumar Awasthi
B-204, 2nd floor, Telecom City,
Plot no. B-9/6, Sector-62, Noida ...Applicant

Versus

Resolution professional,
Avinash Em Projects Pvt. Ltd. ...Respondent

AND IN THE MATTER OF: IA. NO. 6451/ND/2023
(Under Section 33 of IBC, 2016)
Mr. Rahul Jindal
Resolution Professional
2/24, Ramjas Road, Karol Bagh,
New Delhi,-110005 ...Applicant

Under Section: 9 of IBC, 2016

Order Delivered on: 18.03.2024

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)
SH. SUBRATA KUMAR DASH, HON'BLE MEMBER (T)

PRESENT:

For the Applicant/ Suspended Director	**:**	Adv. A. Kumar Singh, Adv. Sanidhya Kumar
For the RP	**:**	Adv. Karan Gandhi

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

IA-5461/2023:- The prayer made in the captioned application reads thus:

> *"a) Allow the present Application without prejudice to the interest of the Applicant.*
>
> *b) Direct the Resolution professional to return the third-party goods/ machineries lying at the land & Building of the Corporate Debtor situated at Sonipat, Haryana.*
>
> *c) Any other further Order may be passed in favour of the Applicant and against the Secured Creditors and Respondent."*

2. As is apparent from the prayer made in the application, Mr. Sudhir Kumar Awasthi, the Suspended Director has sought issuance of direction to Resolution Professional to return the third party goods and machine viz. lying at the land and building of the Corporate Debtor situated at Sonipat (Haryana). We are convinced that the Suspended Director has no locus to file any such application. In terms of the provisions of Sections 17, 18 & 25 of IBC, 2016, these are the IRP and RP who are in the command and control of the Corporate Debtor. In the wake, if any third party has any claim against the CD, it/he/she is expected to approach the RP and it is the RP who would take an appropriate view. If the third party is aggrieved by the decision of the RP, the remedy for it/him/her is to approach this Adjudicating Authority for appropriate direction. The Suspended Director has no locus to file the present application. Thus, **the same is rejected**.

IA-6451/2023:- In the 4th Meeting of CoC held on 18.11.2023, placed on record as Annexure 2 to the application, the CoC passed resolution with

75.96% vote share authorizing the RP to initiate liquidation of the Corporate Debtor. The relevant excerpt of the minutes of the CoC reads thus:

> **ITEM NO. 11: TO DISCUSS AND CONSIDER FILING OF AN APPLICATION WITH THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL, DELHI BENCH II UNDER SECTION 33(2) OF IBC, 2016, FOR INITIATION OF LIQUIDATION AND/ OR DISSOLUTION OF CORPORATE DEBTOR AND FOR APPOINTMENT OF THE EXISTING RESOLUTION PROFESSIONAL AS THE LIQUIDATOR**
>
> The Chairperson apprised the CoC members that since the resolution for publication of Form G was rejected by the CoC in the voting of the 3rd CoC meeting, this agenda has been placed before the CoC for filing an application for liquidation of the Corporate Debtor. The Chairperson again explained to the CoC members that before deciding to liquidate the Corporate Debtor, they should explore the possibility of resolution which is also in line with the spirit of the IBC. The CoC members agreed.
>
> In case the CoC members decide to proceed with liquidation, the Chairperson stated that he proposes his name for acting as the Liquidator of the Corporate Debtor. He added that if his proposal to act as the liquidator is acceptable to the CoC members, he will file his consent for the same. The representative of ICICI Bank requested the RP to share his fee for acting as the Liquidator and the Chairperson proposed that his fee will be as prescribed in the IBBI (Liquidation Process) Regulations.

ITEM NO. 11: TO DISCUSS AND CONSIDER FILING OF AN APPLICATION WITH THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL, DELHI BENCH II UNDER SECTION 33(2) OF IBC, 2016, FOR INITIATION OF LIQUIDATION AND/ OR DISSOLUTION OF CORPORATE DEBTOR AND FOR APPOINTMENT OF THE EXISTING RESOLUTION PROFESSIONAL AS THE LIQUIDATOR

"**RESOLVED THAT** in pursuant to Section 33 (2) of the Insolvency & Bankruptcy Code, 2016 and the rules made thereunder, the consent of members of the CoC be and is hereby accorded to approve the filing of application with Hon'ble NCLT, New Delhi Bench II, for initiation of liquidation of Corporate Debtor and to appoint the existing Resolution Professional, who will give his consent, to act as liquidator of the CD."

"**RESOLVED FURTHER THAT** the consent of the members of CoC be and is hereby accorded to fix the Liquidator's fees as prescribed under Regulation 4 of the IBBI (Liquidation Process) Regulations."

RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be required or considered necessary or incidental thereto for initiating liquidation of the Corporate Debtor."

Votes Cast:

Name of COC Members	**VotingShare (%)**	**Vote Cast(%)**		
		For	**Against**	**Abstain/Not voted**
ICICI Bank Ltd.	75.96 %	Assented		
HDFC Bank Ltd.	23.75 %		Dissented	
Intec Capital Limited	0.29 %			Did not vote
Total	**100.00 %**	**75.96%**	**23.75%**	**0.29 %**

Result: *Based on the aforesaid results, I report that this resolution has been considered as* ***APPROVED*** *as 75.96% votes were cast in favour.*

2. As can be seen from Section 33(2) of IBC, 2016, where the Resolution Professional at any time during the course of Corporate Insolvency Resolution Process intimates the Adjudicating Authority of the decision of the Committee of Creditors approved by not less than 66% of voting share to liquidate the Corporate Debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clause (i), (ii) and (iii) of clause (b) of sub-section (1). The Section 33(1)-(3) provides that where the adjudicating authority passed an order requiring the Corporate Debtor to be liquidated in the manner as laid down in the chapter, it shall pass an appropriate order to the effect. The

Section 33(1)(2)(3) and(4) of the Code reads thus:

"33. Initiation of liquidation. –

(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 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).*

[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.]

(3) Where the resolution plan approved by the Adjudicating Authority [3][under section 31 or under sub-section (1) of section 54L,] is contravened by the concerned corporate debtor, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for a liquidation order as referred to in sub-clauses (i), (ii), (iii) of clause (b) sub-section

(1).

(4) On receipt of an application under sub-section (3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).”

3. In the present matter, as can be seen from the aforementioned, the CoC has already passed resolution dated 18.11.2023 with 75.96% vote share deciding to liquidate the CD.

4. In the wake of the provisions of Section 33(2) of IBC, 2016, this Adjudicating Authority has no option but to order the liquidation of the Corporate Debtor.

5. The Ld. Counsel appearing for Suspended Director drew our attention to the order dated 06.01.2023 passed by Hon'ble NCLAT in **Company Appeal (AT) (Insolvency) No. 1540 of 2022** titled “Hero Fincorp Limited versus M/s Hema Automotive Private Limited through Resolution Professional Shri Vivek Sharma”, upholding the order passed by this Tribunal sending the matter back to CoC for its reconsideration. In the said case, the Appellant had filed its claim before IRP in Form-C, on 09.09.2022, which was provisionally accepted. The Committee of Creditors was constituted with Appellant as the sole Member of CoC. On 07.10.2022, the Form-G, inviting the express of interest was published and the last date for submission of EOI was 24.10.2022. Nevertheless, the RP convened the CoC meeting on 19.10.2022 with sole agenda pertaining to eligible criteria vis.-a-vis. extension of time seeking EOI by issuing/revising amended Form G. Nevertheless, on said date, the CoC passed resolution for liquidation of the CD. It was in such backdrop viz. before last date for submission of EOI, the CoC had passed resolution for

liquidation of CoC, when the last date for submission of EOI was still to come. That this Tribunal remitted the matter back to CoC for reconsideration. In the present case, there is no such factual position. Para 2, 13 and 14 order passed by NCLAT reads thus:

> ***"****2. Brief facts of the case giving rise to this Appeal are:*
>
> *(i) The Appellant extended financial facilities to the Corporate Debtor in the year 2018-2019. The Corporate Debtor committed default in repayment of the loan facilities. The Financial Creditor initiated proceedings under Section 13, subsection 4 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short* ***"SARFAESI Act"****) by taking possession of the secured assets.*
>
> *(ii) An order dated 08.07.2022 was passed by Adjudicating Authority commencing the Corporate Insolvency Resolution Process ("****CIRP****") against the Corporate Debtor.*
>
> *(iii) The Appellant filed its claim in Form-C on 09.09.2022, which was provisionally accepted. The Committee of Creditors ("****CoC****") was constituted with Appellant as the sole Member of the CoC. On 07.10.2022, in accordance with the approval of the CoC, the Resolution Professional ("****RP****") published Form-G, wherein the last date for receipt of Expression of Interest ("****EOI****") was 24.10.2022. The RP convened the CoC Meeting on 19.10.2022 with sole agenda pertaining to eligibility criteria vis-à-vis extension of time seeking EOI by issuing/ revising*
>
> *amended Form-G.*
>
> *(iv) On 19.10.2022 in 3rd CoC Meeting, CoC passed Resolution for liquidation of the Corporate Debtor. In pursuance of Resolution dated 19.10.2022, the RP filed an Application IA No.5586 of 2022 praying for an order of the liquidation.*
>
> *(v) The Adjudicating Authority heard the Application on 23.11.2022 and directed the CoC to reconsider the Application. Order of Adjudicating Authority being in 2 paragraphs, is as follows:*
>
> > *"This is an application under Section 33(2) read with section 34 of IB Code 2016 seeking initiation of the*

liquidation of the Corporate Debtor and appointment of Liquidator. The present application has been filed by the RP. Para 3 of the present application says that as per the public announcement dated 28.07.2022 the last date for submission of claims by Creditors was 09.08.2022. It also transpires that M/s. Hero Fincorp Ltd. (in NBFC) is the sole Member of the CoC. It transpires that on 07.10.2022 in accordance with the approval of the CoC, RP has published "Form G" wherein the last date of receipt of Expression of Interest ("EOI") was 24.10.2022. However, prior to the said date the sole Member of the CoC resolved and directed the RP to move an application for liquidation of the Corporate Debtor.

Such approach is not in the spirit of IB Code as Insolvency Resolution is the focus of the act. Only in the event of failure of insolvency resolution the steps for liquidation have to be taken. The sole Member of CoC has not adopted a judicious approach of exploring the possibility of resolution. Since he has recommended the liquidation even before the time period for seeking EOI had elapsed which is 24.10.2022. Therefore, CoC is directed to reconsider the present application. CoC is also directed to release RP fee and expenses incurred by RP till date on priority basis. The prayer at "(i)", "(iii)" & "(iv)" are denied."

(vi) Challenging the order of the Adjudicating Authority, this Appeal has been filed by the sole Financial Creditor.

13. There is no doubt that in Section 33, sub-sections (1) and (2) legislature has used the expression "shall". However, the obligation of the Adjudicating Authority to direct for liquidation shall rise only when decision of the CoC is in accordance with the Code. Judicial review of the decision of the CoC in a particular case is not precluded. In ***Sreedhar Tripathy****, it has been clearly held that judicial review of the decision of the CoC is not precluded and it depends on facts of each case.*

14. Coming to the facts of the present case, Form-G having been issued after preparation of the Information Memorandum and the last date fixed by the CoC being 24.10.2022 for receiving Expression of Interest, we are satisfied that Adjudicating Authority did not commit any error in rejecting for liquidation and asking the

CoC to reconsider its decision. The order of Adjudicating Authority clearly empowers the CoC to reconsider its decision and take an appropriate decision taking into consideration further facts and events. We, thus, are satisfied that there is no ground to interfere with the impugned order. The Appeal is dismissed. No costs.

6. In **Collector of Central Excise vs. M/s Alnoori Tobacco Products and Anr.** (Civil Appeal 4502-03 of 1998) passed on 21.07.2004, Hon'ble Supreme Court ruled that the reliance on a judicial precedence should be placed only after analysing the facts of the case in which the judgment relied upon is delivered and the facts of the case before the Court and only after when the facts of the case in which the judgement is delivered fits into the facts of the case in which a decision is to be taken, the reliance on the judgment cited as judicial precedence should be placed. The relevant excerpt of the judgment reads thus: -

*"**11.** Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark on lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermott observed: (All ER p.14 C-D)*

"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge...."

***12.** In Home Office v. Dorset Yacht Co. Lord Reid said, (All ER p. 297g-h) "Lord Atkin's speech ... is not to be treated as if it were a statutory definition It will require qualification in new* *circumstances." Megarry, J. in Shepherd Homes Ltd. v. Sandhan (No. 2) observed: "One must not, of course, construe even a reserved judgment of Russell, L.J. as if it were an Act of Parliament." And, in British Railways Board v. Herrington Lord Morris said: (All ER p. 761c)*

"There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case."

***13.** Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.*

***14.** The following words of Hidayatullah, J. in the matter of applying precedents have become locus classicus: (Abdul Kayoom v. CIT, AIR p. 688, para 19)*

"19. ... Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

*   *   *

"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

7. In the present case, it is not so that the expression of interest was invited and before expiry of last date for submission of such interest, the CoC decided to liquidate the CD. As can be seen from the explanation below sub-section (2) of Section 33 of IBC, 2016, 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 201 memorandum.

8. We may not be oblivious of the fact that the procedure prescribed in the law should be followed in letter and spirit and the decisions should be taken with reference to such procedure only. In Civil Appeal 4807 of 2022 titled **"Union Bank of India Vs. Mahendra Singh**", Hon'ble Supreme Court rule reads thus:

> *"**15**. A three Judge Bench of this Court in a judgment reported as Chandra Kishore Jha v. Mahavir Prasad, held as under:*
> *"**17.**………………..It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. (See with advantage: Nazir Ahmad v. King Emperor [(1935-36) 63 IA 372 : AIR 1936 PC 253 (2)], Rao Shiv Bahadur Singh v. State of V.P. [AIR 1954 SC 322 : 1954 SCR 1098], State of U.P. v. Singhara Singh [AIR 1964 SC 358 : (1964) 1 SCWR 57].) An election petition under the rules could only have been presented in the open court up to 16-5-1995 till 4.15 p.m. (working hours of the Court) in the manner prescribed by Rule 6 (supra) either to the Judge or the Bench as the case may be to save the period of limitation. That, however, was not done……………"*
> ***16.** The said principle has been followed by this Court in Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh wherein this Court held as under:*
> ***"14.** Where the law prescribes a thing to be done in a particular manner Following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure…………":*

8. Also in **Mr. Arun Kumar Jagatramka Vs. Jindal Steel and Power Limited and Anr.**, Hon'ble Supreme Court ruled that the NCLT and NCLAT should not do innovation with the Code and should follow the same as it is. The relevant excerpt of the judgment reads thus:

> *95. At this juncture, it is important to remember that the explicit recognition of the schemes under Section 230 into the liquidation*

process under the IBC was through the judicial intervention of NCLAT in Y. Shivram Prasad30. Since the efficacy of this arrangement is not challenged before us in this case, we cannot comment on its merits. However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC. This conscious shift in their role has been noted in the report of the Bankruptcy Law Reforms Committee (2015) in the following terms:

> *"An adjudicating authority ensures adherence to the process At all points, the adherence to the process and compliance with all applicable laws is controlled by the adjudicating authority. The adjudicating authority gives powers to the insolvency professional to take appropriate action against the Directors and management of the entity, with recommendations from the creditors committee. All material actions and events during the process are recorded at the adjudicating authority. The adjudicating authority can assess and penalise frivolous applications. The adjudicator hears allegations of violations and fraud while the process is on. The adjudicating authority will adjudicate on fraud, particularly during the process resolving bankruptcy. Appeals/actions against the behaviour of the insolvency professional are directed to the Regulator/Adjudicator."*

9. Coming to the facts of the present case, as can be seen from para 4 of the application, the RP had placed the agenda and draft documents in relation to publication of EoI (From G) before the Committee of Creditors in the 3rd

meeting held on 31.10.2023. The agenda with reference to issuance of Form G and inviting the resolution plans was rejected by CoC of the Corporate Debtor with 75.96% of majority. Apparently, it was not shown that the CoC had taken a decision to publish Form-G and invite expression of interest and before expiry of the date for submission EoI, passed the resolution for liquidation of the Corporate Debtor. In the present case, the CoC had taken conscious decision not to publish Form G, inviting EOI. Para 2 to 5 of the applications reads thus:

> *"2. That the erstwhile IRP had been carrying out the functions vested to him under the provisions of the Code. Thereafter the Committee of Creditors in its 2nd meeting held on 04.09.2023 resolved to replace the erstwhile IRP with the Applicant i.e. Mr. Rahul Jindal in pursuance of which an IA-5111/2023 was filed. That the said IA 5111/2023 was listed before this Hon'ble Adjudicating Authority on 26.09.2023 wherein inter alia, this Hon'ble Adjudicating Authority appointed Mr. Rahul Jindal as the Resolution Professional in the matter of CIRP of the Corporate Debtor and disposed of the said IA.*
>
> *3. That the present application is filed by the Resolution Professional i.e., Rahul Jindal (hereinafter referred to as "Applicant") inter alia for seeking liquidation of the Corporate Debtor as approved by the Committee of Creditors in its 4th meeting held on 18.11.2023 with 75.96% of majority.*
>
> *4. That the Applicant / Resolution Professional inter alia placed the agenda and the draft documents in relation to the publication of expression of interest / FORM G before the Committee of Creditors in the 3rd meeting of CoC held on 31.10.2023. That the said agenda w.r.t. issuance of Form G and inviting the resolution plans was rejected by the CoC of the Corporate Debtor with 75.96 % of majority. A copy of minutes of 3rd meeting of Committee of Creditors held on 31.10.2023 along with voting results is annexed as* ***ANNEXURE- 1 (COLLY).***
>
> *5. That thereafter the Applicant called 4th meeting of Committee of Creditors inter alia for seeking the approval of liquidation of the*

Corporate Debtor and the said agenda for the approval of the liquidation of the Corporate Debtor was approved by the Committee of Creditors with 75.96% of majority. The extract of Resolution is as follows:

"RESOLVED THAT in pursuant to Section 33 (2) of the Insolvency & Bankruptcy Code, 2016 and the rules made thereunder, the consent of members of the CoC be and is hereby accorded to approve the filing of application with Hon'ble NCLT, New Delhi Bench II, for initiation of liquidation of Corporate Debtor and to appoint the existing Resolution Professional, who will give his consent, to act as liquidator of the CD.

RESOLVED FURTHER THAT the consent of the members of CoC be and is hereby accorded to fix the Liquidator's fees as prescribed under Regulation 4 of the IBBI (Liquidation Process) Regulations.

RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be required or considered necessary or incidental thereto for initiating liquidation of the Corporate Debtor"

Further it is also pertinent to mention that the voting on the Resolution qua the Liquidation of the Corporate Debtor commenced on 20.11.2023 and was concluded on 22.11.2023. The voting results achieved for approval of liquidation of the Corporate Debtor are as follows:

S.No.	**Name of Financial Creditor**	**Voting %**	**Vote Casted**
1.	ICICI Bank	75.96%	Assented
2.	HDFC Bank	23.75%	Dissented
3.	Intec Capital Limited	0.29%	Not Voted
	TOTAL	100%	

A copy of minutes of 4th meeting of committee of creditors along with the voting results is annexed as ***ANNEXURE- 2 (COLLY)."***

10. In view of the aforementioned, in terms of the Resolution passed by the CoC, the Corporate Debtor is ordered to the liquidator. **The application**

stands disposed of.

11. Accordingly, **Mr. Manoj Kumar Anand** with **Reg. No: IBBI/IPA-001/IP-P00084/2017-18/10180 (e-mail ID: anandmanoja@gmail.com)** is appointed as the Liquidator qua the Corporate Debtor to carry out the liquidation process subject to the terms inter alia:

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 (viz. Sections 35, 36, 37, 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) 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;

e) 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.

f) 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.

h) 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.

i) 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.

j) 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.

12. 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.

Sd/-	**Sd/-**
(SUBRATA KUMAR DASH)	**(ASHOK KUMAR BHARDWAJ)**
MEMBER (T)	**MEMBER (J)**