



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-II
KOLKATA

I.A.(IBC)(Liquidation). No. 17/KB/2025

In

C.P. (IB) No. 78/KB/2023

Date of order: 22/01/2026

In the Matter of:

Indian Bank,

SAM Large Branch,

1st Floor. 14 India Exchange Place,

Kolkata-700001

FINANCIAL CREDITOR

Versus

M/s P.C Dey & Son Distribution Private Limited

Deshbandhu Park, Bata Show Room,

Jessore Road,

Howrah, West Bengal-743263

CORPORATE DEBTOR

AND

In the matter of:

Sriram Mittal, Resolution Professional,

Of P.C Dey & Sons Distributor Private Ltd

Working for gain at AAA Insolvency

Professionals LLP, 15B, Ballygunge

Circular Road, Mousumi Apartments,

Ground Floor, Kolkata-700019

Applicant

AN APPLICATION UNDER SECTION 33 OF THE INSOLVENCY



AND BANKRUPTCY CODE, 2016

Coram: **Labh Singh Hon'ble Member(Judicial)**

Rekha Kantilal Shah Hon'ble Member(Technical)

Present:

Mr.Riyanshu Agarwal, Adv.]For the RP
Mr.Sriram Mittal, RP

O R D E R

Labh Singh Member(Judicial)

1. This is an application filed under Section 33(1)(a), 33(2) & 34(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 seeking reliefs as follows:
 - (a) Pass necessary directions directing the liquidation of the Corporate Debtor, P.C. Dey & Son Distributors Private Limited and appoint a Liquidator thereof
 - (b) To pass such other order(s) which this Tribunal may deem to be fit and proper in the interest of justice.
2. Brief facts of the case are that this Tribunal, vide order dated 04.07.2025 in C.P. (IB) No. 78/KB/2023 admitted the Corporate Debtor into the Corporate Insolvency Resolution Process (CIRP) on a petition filed by Indian Bank, a Financial Creditor. The applicant, vide the same order, was appointed as the Interim Resolution Professional to take charge of the management and affairs of the Corporate Debtor



and conduct the CIRP in accordance with the Code and the applicable regulations.

3. In compliance with Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the applicant made Public Announcement on 12.07.2025 in Form 'A', inviting claims from all creditors of the Corporate Debtor. The last date for receipt of claims was fixed 25.07.2025.
4. Pursuant to the claims received and duly verified, the Committee of Creditors (for short "CoC") was constituted in accordance with Section 21 of the IBC Code. The financial creditors admitted and their respective voting shares are as follows:

Name of Financial Creditor	Amount Admitted	Voting Share
Indian Bank	32,28,00,409.19	60.79%
Aditya Birla Capital Limited	20,82,25,788.65	39.21%

5. Subsequent to the public announcement and verification of claims, the Applicant moved an application being I.A.(I.B.C)/1283(KB)2025 before this Tribunal bringing on record the constitution of the Committee of Creditors ("CoC") by filing of the report certifying such constitution in terms of the IBC Code and the relevant regulations. The said application was duly taken on record and, after consideration, the same was disposed of by order dated



08.08.2025, whereby this Tribunal accepted the report of constitution of the CoC.

6. Following the constitution of the CoC, the first meeting of the CoC was convened on 07.08.2025 at 4:00 P.M. through video conferencing, in compliance with Section 22 of the IBC Code and the applicable regulations. The meeting was attended by all financial creditors holding 100% of the voting share. The key resolutions were deliberated upon and unanimously approved wherein the Applicant, Mr. Sriram Mittal, was confirmed as the Resolution Professional to conduct the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor in place of the Interim Resolution Professional.
7. The CoC approved the monthly professional fee for the Resolution Professional, together with reimbursement of incidental expenses as part of CIRP costs. The CoC ratified the engagement of AAA Insolvency Professionals LLP to provide back-end and administrative support to the Resolution Professional. The CoC authorised the Resolution Professional to appoint two sets of registered valuers to determine the fair value and liquidation value of the Corporate Debtor's assets. The CoC reviewed and ratified the initial CIRP expenses incurred up to the date of the meeting, including costs of public announcement, statutory filings, and incidental administrative expenses.



8. During the said first meeting, certain proposals placed before the Committee of Creditors were not approved or were deferred for later consideration. The said proposals were proposal to replace interim resolution professional as one of the financial creditors, Aditya Birla Capital Limited. The proposal for the appointment of Mr. Mahesh Chand Gupta (IBBI Regn. No. IBBI/IPA- 001/IP-P 01489/2018-2019/12304) as the Resolution Professional in place of the Applicant. These proposal was put to vote and was unanimously rejected by the CoC.
9. The second proposal was for appointment of a Transaction Auditor. The CoC discussed the requirement of a transaction auditor to examine any preferential, undervalued, extortionate or fraudulent transactions. Decision on this appointment was deferred, the CoC noted that the Corporate Debtor's financial records after FY 2017-18 were not available and that a meaningful audit could only be undertaken after receipt of the necessary data.
10. The third proposal of engagement of a Standing Legal Firm. The CoC decided that although the need for legal assistance was acknowledged, but it decided not to engage a full-service law firm at that stage in order to contain costs. Instead, it was agreed that advocates would be engaged on a case to case basis as required.



11. Pursuant to the first meeting, the second meeting of the Committee of Creditors was originally convened on 01.09.2025 at 4:00 P.M. through video conferencing. All financial creditors (holding 100% voting share) were represented. During the preliminary deliberations, Aditya Birla Capital Limited, holding 39.21% voting share, formally requested that the agenda be expanded to include a specific item for consideration of the liquidation of the Corporate Debtor under Section 33 of the IBC Code, citing the prolonged cessation of business operations and the absence of recoverable assets. As this proposal had not been part of the circulated agenda and required prior notice and supporting documentation, the members unanimously agreed that the matter should be properly placed before the CoC for discussion and voting. Accordingly, the meeting was adjourned to 04.09.2025 to enable the Resolution Professional to issue a fresh agenda and provide the requisite details for informed deliberation on the proposed liquidation.

12. The adjourned second meeting of the Committee of Creditors was held on 04.09.2025 at 4:00 P.M. through video conferencing, with all financial creditors holding the entire 100% voting share present. The meeting was chaired by the Resolution Professional and conducted in accordance with



the provisions of the IBC Code and the applicable CIRP Regulations.

13. After confirmation of quorum and the minutes of the first meeting, the CoC considered the updated agenda items and passed resolutions as set out below.

a) Ratification of Earlier Appointments and Costs: The CoC unanimously ratified the appointments of the Resolution Professional, the supporting Insolvency Professional Entity (AAA Insolvency Professionals LLP), and the registered valuers, along with approval of CIRP costs incurred up to the date of the meeting.

b) Appointment of Advocate for Legal Representation: The CoC approved the formal appointment and fee schedule of Advocate to represent the Resolution Professional in proceedings before this Tribunal and other fora required during the CIRP.

c) Resolution for Liquidation of the Corporate Debtor: After detailed discussion of the Corporate Debtor's financial condition-including absence of operations for more than six years, lack of employees, non-availability of books of account after FY 2017-18, and the fact that all major assets had been sold by secured creditors. The CoC, with 100% voting share, resolved to initiate liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016, and to appoint a Liquidator.



14. The following resolutions rejected unanimously or kept in abeyance by CoC

a) Appointment of Transaction Auditor: The RP has proposed the transaction audit and discussed the quotations received by him with the COC members. The proposal to engage a transaction auditor and his professional fee to investigate any preferential, undervalued, extortionate, or fraudulent transactions was deferred, the CoC noting that meaningful audit work was not feasible until complete financial records and post- 2017-18 accounts were made available.

b) Engagement of Accounting/Compliance Professionals: The decision to appoint professionals for updating statutory filings and accounts (MCA, GST, Income Tax, TDS etc.) was likewise deferred, again due to the absence of requisite books of accounts and financial data from the suspended management.

c) Publication of Form G and Invitation for Expressions of Interest (EOI): After a detailed discussion of the factual and financial position of the Corporate Debtor, the CoC Members recorded that the Corporate Debtor had remained non-operational for over six years, possessed no active business or employees, and maintained no updated books of account after the financial year 2017-18. They further observed that the major secured assets had



already been disposed of by Indian Bank prior to commencement of CIRP, leaving only a single non-functional Toyota Fortuner vehicle of negligible value.

15. Hence, the CoC unanimously resolved not to proceed with the publication of Form G and thereby rejected the proposal to invite any resolution plans.
16. During the adjourned second meeting of the Committee of Creditors held on 04.09.2025, the members specifically deliberated on the agenda item relating to the publication of Form 'G' for inviting Expressions of Interest from prospective resolution applicants. After a detailed discussion of the factual and financial position of the Corporate Debtor, the CoC unanimously resolved not to proceed with the publication of Form 'G' and thereby rejected the proposal to invite resolution plans.
17. The CoC members recorded that the Corporate Debtor had remained non-operational for over six years, possessed no active business or employees, and maintained no updated books of account after the financial year 2017-18. They further observed that the major secured assets had already been disposed of by Indian Bank prior to commencement of CIRP, leaving only a single Toyota Fortuner vehicle of negligible value.



18. In addition, the suspended Board of Directors had failed to extend any cooperation, despite repeated notices under Section 19 of the IBC Code, rendering revival efforts impracticable. Having regard to these factors and to the absence of any realistic prospect of resolution as a going concern, the CoC, holding 100% of the voting share, unanimously resolved to place the Corporate Debtor under liquidation in terms of Section 33(2) of the Insolvency and Bankruptcy Code, 2016, and to appointed a Liquidator to carry out the liquidation process in accordance with law. This decision was duly recorded in the minutes of the second CoC meeting and forms the basis of the present application for liquidation.
19. It has been submitted that the present application is bona fide filed in good faith, solely for the completion of process initiated under the Insolvency and Bankruptcy Code, 2016. In view of the unanimous decision of the Committee of Creditors and the admitted factual position that the Corporate Debtor has no viable business, no continuing operations, and no assets capable of sustaining a resolution plan, the liquidation of the Corporate Debtor is the only efficacious remedy.
20. We have heard the submissions and perused the record of the entire case. We have also considered law applicable on the facts and circumstances of the present case.



21. The copy of Form H is annexure "A" to the present application. The Corporate Debtor has no business since 2018 and as such there are no substantial transactions in the Corporate Debtor.
22. It is seen from the records that the Committee of Creditors in a meeting held on 04.09.2025 unanimously resolved to liquidate the Corporate Debtor. In such circumstances, this Adjudicating Authority concludes that this application be allowed. As a consequence, thereof, we order for the Liquidation of the Corporate Debtor as per Section 33(2) of IBC, 2016.
23. The proposed Liquidator, Mr. Sriram Mittal has also filed the written consent to act as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorization for Assignment (AFA) for the said person is valid up to 30.06.2026.
24. We hereby appoint Mr. Sriram Mittal with Reg. No. IBBI/IPA-001/IP-P02276/2021-2022/13677(AFA valid till 30.06.2026) as the Liquidator of the Corporate Debtor, to carry out the liquidation process subject to the following terms of the directions.
 - a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation



Process) Regulations, 2017 as amended upto date enjoined upon her.

- 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 suitable application before this Adjudicating Authority.
- d) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- e) 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.
- f) 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.

25. The Registry is directed to communicate this order to the Registrar of Companies and to the Insolvency and Bankruptcy Board of India.
26. 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.
27. Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.
28. With the above said directions, this IA(IBC)(LIQ)/17/2025 filed for Liquidation of the Corporate Debtor stands disposed of.

Rekha Kantilal Shah
Member(Technical)

Labh Singh
Member(Judicial)