

**THE NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. III  
AT NEW DELHI**

**IA No. 2784/ND/2021, IA No. 5240/ND/2021**

**IN**

**Company Petition No. (IB)-892(ND)/2020**

*Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the  
corporate debtor*

**IN THE MATTER OF:**

**Mr Gautam Singhal**

**Resolution Professional of**

**M/S SPM Automotive Components Private Limited**

....Applicant/RP

Versus

**Sandeep Mahajan & Anr**

....Respondents

**AND IN THE MATTER OF**

**M/S KNL Driveline Parts Private Limited**

...Operational Creditor

Versus

**M/S SPM Automotive Components Private Limited**

...Corporate Debtor

Order delivered on:08.02.2022

**Coram:**

**SHRI BACHU VENKAT BALARAM DAS**

**SHRI NARENDER KUMAR BHOLA**

**HON'BLE MEMBER (JUDICIAL)**

**HON'BLE MEMBER (TECHNICAL)**

**For the applicant:** Mr Jeet Mala, Advocate

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*Don*

**ORDER**

**Per: Bachu Venkat Balaram Das, Member(J)**

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (**hereinafter referred as the “Code”**) for issuance of directions for liquidation of the corporate debtor, M/S SPM Automotive Components Private Limited.
2. The facts in brief are that the operational creditor, M/S KNL Driveline Parts Private Limited had filed an application bearing no. IB 892(ND)/2020 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this Tribunal vide order dated 18.11.2020 and Mr. Vijay Kishore Saxena appointed as Interim Resolution Professional (IRP).
3. The RP submits that in compliance of Section 15 of the I & B Code read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, made Public Announcement in Business Standards English and Hindi Edition on 21.11.2020.
4. The 1<sup>st</sup> meeting of the CoC was held on 16.08.2020 wherein RP, Mr. Gautam Singhal was appointed as the RP with 100% votes. In the 2 meeting of the CoC, Form G dated 14.02.2021 was published in English newspaper ‘Financial Express’ and in Hindi ‘Jansatta’. The applicant did not receive any Expression of Interest.

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5. In the 3<sup>rd</sup> meeting of the CoC, RP submits that Form G dated 28.03.2021 was again published in Financial Express in English and Jansatta in Hindi. The last date of submission of Expression of Interest (EOI) was 09.04.2021, however no Expression of Interest was received.
6. The RP submits that in the 4<sup>th</sup> meeting of the CoC held on 11.05.2021, CoC with 100% voting share passed resolution for initiation of liquidation process of the corporate debtor. The relevant Resolution passed in the meeting are reproduced herein:

*"RESOLVED That considering the fact that no EOI has been received till date i.e., 09<sup>th</sup> April, 2021 and in accordance with the provisions of section 33 of the I & B Code, 2016, the COC decides to liquidate the corporate debtor as per the provisions of the I & B Code, 2016 and IBBI (Liquidation Process) Regulations, 2016 and authorize the RP to do all such acts and deeds as may be required in relation to give effect to the present resolution."*

7. An application was filed by the applicant bearing IA 5240/ND/2021 to withdraw his consent to act as a liquidator of the corporate debtor due to some personal difficulties and proposed the name of Mr. Rakesh Bhatia to be appointed as the liquidator of M/S SPM Automotive Components Private Limited.
8. The CIRP of 180 days in the present matter estimated for closure on 17.05.2021. Section 33 of I & B Code, provides that in case no resolution plan is forthcoming, the liquidation process can be initiated. The section 33 of IBC, 2016 of which the relevant sub-section 1 of section 33 is reproduced hereunder;

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“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.”*

9. In above circumstances, taking into consideration the provisions of law as well as the facts on record, we order for liquidation of the corporate debtor and in the circumstances the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

a. Mr. Rakesh Bhatia, Resolution Professional of the corporate debtor having IBBI registration number IBBI/IPA-001/IP P-00978/2017-18/11608 has consented to act as the liquidator of the corporate debtor and who is be and hereby appointed as liquidator of the corporate debtor. Written Consent of Mr. Rakesh Bhatia, Resolution Professional of the corporate debtor

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under section 34 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, signifying his intention to act as the liquidator of the corporate debtor is annexed.

- b. It 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;
- c. The Registry is directed to communicate this order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly in relation to other fiscal and regulatory authorities which governs 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 that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- g. 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

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Bankruptcy Code, 2016 and in accordance with the relevant regulations.

- h. 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.
- i. Copy of this order be sent to the operational creditor, corporate debtor and the Liquidator for taking necessary steps.
- j. I.A. 2784(ND) /2021 & I.A. 5240(ND)/2021 are disposed of in aforesaid terms.
- k. The office is directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor and the Liquidator at the earliest but not later than seven days from today. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.



(BACHU VENKÄT BALARAM DAS)

**MEMBER (Judicial)**



(NARENDER KUMAR BHOLA)

**MEMBER (Technical)**

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