

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH**

I.A. (IB) No. 221/2021

In

C.P. (IB) No. 43/ALD/2019

In the matter of:

An application under section 33(2) of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Punjab National Bank

... Financial Creditor

Versus

Somanil Chemicals Limited

...Corporate Debtor

And

In the matter of:

Vekas Kumar Garg

(RP of Somanil Chemicals Limited)

...Applicant

Coram:

Shri Rajasekhar V.K. : Member (Judicial)

Shri Balraj Joshi : Member (Technical)

Appearances (through video conference):

For Applicant : Mr. Alok Kumar Kuchhal, Advocate

Date of hearing: 18.10.2021

Date of pronouncement of Order: 14.12.2021

—Sd—

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This court convened via video conferencing.
2. This is an application filed by the Resolution Professional upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, viz., Somanil Chemicals Limited [CIN: U24119UP1999PLC024690], on the ground that no resolution plan was approved by the Committee of Creditors. The Applicant has sought for the following reliefs:
 - a. *"Pass an order under section 33(2) of the Insolvency & Bankruptcy Code, 2016 for liquidation of the Corporate Debtor i.e. Somanil Chemicals Limited.*
 - b. *Pass an order for appointment and fee of present Resolution Professional as liquidator in respect of the Corporate Debtor;*
 - c. *Pass such further and other orders and directions as the nature and circumstances of the case may require and as this Hon'ble Tribunal may deem fit and proper."*
3. This Adjudicating Authority vide its order dated 20.02.2020 on a Petition filed by Punjab National Bank ('financial creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 ('the Code') directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed Mr. Rajiv Bhatnagar as the Interim Resolution Professional ('IRP') who was replaced by Mr. Vekas Kumar Garg, as the Resolution Professional, as confirmed by this Adjudicating Authority vide Order dated 03.11.2020.

—Sd—

4. The Applicant submits that the CIRP period had expired on 18.08.2020 subsequent to which the RP had moved an application for exclusion of 166 days alongwith extension of 90 days for completion of CIRP which was allowed by this Adjudicating Authority *vide* order dated 13.01.2021 and further it was extended till 01.05.2021 *vide* order dated 13.01.2021
5. Further stated that RP had further invited expression of interest from prospective applicants but no resolution plan was received despite issuance of Form G twice.
6. However, on 16.06.2021 in the 8th meeting of the CoC, it was resolved with 100% voting share to recommend liquidation of the Corporate Debtor. The RP has given his consent to act as liquidator which is placed at page 17 of the present application. He is stated to have a valid authorization for assignment.
7. Hence, the RP has filed an application under section 33(2) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor.
8. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating Authority of the decision of the CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.
9. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A. No. 221/2021 filed by Mr. Vekas Kuamr Garg, RP of Somanil Chemicals Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;

—Sd—

- b. Mr. Vekas Kumar Garg is hereby appointed as liquidator as provided under section 34(1) of the Code, subject. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- c. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in liquidation.
- d. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- e. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- f. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- g. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- h. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Uttar Pradesh, Kanpur, within whose jurisdiction the Corporate Debtor is registered.

—Sd—

Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, Uttar Pradesh, Kanpur.

10. The application bearing **IA No. 221/2021** shall stand disposed of in accordance with the above directions.
11. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
12. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
13. List the main **CP (IB) No. 43/ALD/2019** for reporting progress on **15.03.2022**.

—Sd—

[Balraj Joshi]

Member [Technical]

—Sd—

[Rajasekhar V.K.]

Member [Judicial]

Swati Gupta(LRA)