

THE NATIONAL COMPANY LAW TRIBUNAL
COURT-IV
AT NEW DELHI

I.A. 155/ND/2021

IN

Company Petition No. (IB) - 1144(ND)/2019

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

In the matter of:

Subhash Kumar Kundra
Resolution Professional
M/s Ekdant Buildtech Private Limited

... Applicant/Resolution Professional

AND

In the matter of:

P.S.T Trading and Components

...Applicant/Operational Creditor

Versus

M/s Ekdant Buildtech Private Limited

...Respondent/ Corporate Debtor

Order delivered on: 31.03.2022

CORAM:

Dr. DEEPTI MUKESH, HON'BLE MEMBER (JUDICIAL)

Ms. SUMITA PURKAYASTHA, HON'BLE MEMBER (TECHNICAL)

ORDER

Per SMT. SUMITA PURKAYASTHA, MEMBER-TECHNICAL

1. This is an application filed by the Interim Resolution Professional under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for

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liquidation of the Corporate Debtor, M/s Ekdant Buildtech Private Limited.

2. The facts in brief are that the operational creditor had filed an application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The said application was admitted by this Tribunal on 04.11.2019 initiating CIRP against the corporate debtor and the Mr. Satish Joshi was appointed as the Interim Resolution Professional (IRP). The IRP made the Public Announcement in 'Form A' in respect of initiation of CIRP. After collection of claims, the CoC was constituted and first meeting of CoC was held on 06.12.2019. The applicant was confirmed as Resolution Professional of the corporate debtor vide order dated 15.01.2020.
3. It is submitted that the 180 days of CIRP period was expiring on 11.06.2020 after exclusion of period lost in lockdown, therefore, in terms of Section 12 read with Section 33 of the Code, the corporate debtor has fell into Liquidation on expiry of period of CIRP. The applicant further submitted that after 5th meeting of CoC no further meeting was held and in 5th meeting the CoC deferred all the agendas regarding liquidation. Therefore as on date no resolution has been passed for Liquidation of the corporate debtor.
4. The applicant submitted that since the time for CIRP period has expired, the present application has been filed under Section 33 (1) of the Code seeking to put the Corporate Debtor into liquidation.

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5. It is pertinent to mention here that the financial creditor corporation bank has filed certain objections against the application, rejoinder has also been filed by the applicant, however, since, there is no possibility of resolution of corporate debtor and CIRP period has already been expired, we do not find any merit in the objections of the corporation bank.
6. In view of the submission made by the parties, the liquidation has to follow as recommended by the Committee of Creditors in terms of provisions of Section 33 (1) of the Code.
7. In the factual background, the payer for liquidation of the corporate debtor under Section 33 of the Code is hereby allowed.
8. Resultantly, the present application IA No. 155/2021 stands allowed and hereby it is ordered that liquidation of the corporate debtor, namely M/s. Ekdant Buildtech Private Limited shall be commenced in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016
9. As a consequence, the court appoints Mr. Chetan Gupta having registration no. IBBI/IPA-002/IP-N01168/2021-22/13950, email Chetan.gupta@apacandassociates.com as Liquidator in terms of Section 34(1) of the Code with following directions:
 - a. Mr. Chetan Gupta, 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 (Regulations);

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- b. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Code shall commence;
- c. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Code and in accordance with the relevant regulations.
- d. The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (1) of the Code.
- e. The liquidator shall also follow up the pending application, if any, for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- f. 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 Regulations.
- g. 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. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

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Resultantly the present application stands allowed.

The application is allowed and disposed off.

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(SUMITA PURKAYASTHA)

MEMBER (T)

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(DR. DEEPTI MUKESH)

MEMBER (J)