

**THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
I.A.1900 (PB) /2020**

**IN**

**Company Petition No. (IB) – 1096 (PB) /2019**

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

**In the matter of:**

Bharat Chugh

....Financial Creditor

vs.

M/s. PD Advisory Services LLP .....Corporate Debtor

AND

**In the matter of:**

Ms. Maya Gupta

....Applicant/Resolution Professional

***Order Pronounced on: 04.09.2020***

**Coram:**

**SH. B.S.V PRAKASH KUMAR  
HON'BLE ACTNG PRESIDENT  
SH. HEMANT KUMAR SARANGI  
HON'BLE MEMBER (TECHNICAL)**

For the Applicant : Mr. Rakesh Kumar, Ms. Preeti Kashyap, Advocates  
with Ms. Maya Gupta, RP

For the Respondent : Mr. Arun Saxena, Mr. Saral Sharma, Advocates

## ORDER

**PER- HEMANT KUMAR SARANGI, MEMBER (T)**

1. This is an application filed by the Resolution Professional, under Section 33 (1) (a), of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred as the "Code"), for issuance of directions for liquidation of the corporate debtor, M/s. PD Advisory Services LLP.
2. The facts in brief are that the Financial Creditor, Mr. Bharat Chugh, had filed an application under Section 7 of the Code bearing number IB-1096(PB)/2019, for initiation of Corporate Insolvency Resolution Process (CIRP), against the corporate debtor. The said application was admitted by this Tribunal on 21.10.2019, thereby, initiating Corporate Insolvency Resolution Process against the corporate debtor, Ms. Maya Gupta was appointed as the Interim Resolution Professional ("IRP").
3. Thereafter, in terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations), the Interim Resolution

Professional made paper publication inviting claims from the creditors of the corporate debtor. Consequently, in compliance of Section 21 of the Code read with Regulation 17 of the CIRP Regulations, Committee of Creditors was constituted. Mr. Bharat Chugh, was the sole CoC member having 100% voting share.

4. Thereafter, the first meeting of CoC was held on 19.11.2018 and the IRP was appointed as Resolution Professional of the Corporate Debtor.
5. In the second meeting of CoC it was decided that RP to issue Form-G for calling of the Expression of Interest ("EoI"), for submitting a resolution plan. The Last date for the receipt of EoI was 10.02.2020.
6. The Applicant further states that, in the third CoC meeting held on 24.02.2020, the RP informed that, no EoI received for the submission of Resolution Plan as per regulation 36A of IBBI (CIRP) Regulations, 2016 and it was resolved in the meeting of CoC that the Corporate Debtor shall be liquidated and application in this regard should be filed.

7. The Applicant has stated that, as per the financial position of the Corporate Debtor, it has only current assets, consisting of TDS & GST refund apart from credit amount lying in the bank account of CD. The total value of the financial statement as on 21.10.2019 is Rs. 36.69 lakh out of which Rs. 9.60 lakh could be recovered as refund of TDS amount.
8. It is pertinent to refer to the statutory provisions provided in Section 33 (1) (a) of the Code which mandates that *“where the Adjudicating Authority before the expiry of the maximum period permitted for completion of the corporation insolvency resolution process under Section 12 does not receive a resolution plan under sub-section (6) of Section 30, it shall pass an order requiring the corporate debtor to be liquidated in the manner as laid down in the Chapter.”*
9. Therefore, upon failure of the resolution process there being no approved resolution plan and on completion of the statutory CIRP period; Liquidation has to follow. Adherence to statutory requirements has to be in toto.

When the language of the Code is clear and explicit the Adjudicating Authority must give effect to it whatever may be the consequences.

**10.** In the factual background and in the absence of any approved resolution plan and for want of time beyond statutory CIRP period; there is no other alternative left but to order in conformity with the decision of the Committee of Creditors, *for liquidation of the corporate debtor under Section 33 of the Code.*

**11.** In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. PD Advisory Services LLP, in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

**a.** Ms. Maya Gupta having Registration No. IBBI/IPA-002/IP-N00363/2017-18/11061, is appointed as Liquidator in terms of Section 34(1) of the Code.

**b.** Ms. Maya 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;

- 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.** 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;
- e.** The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.



- f.** The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.
- g.** The liquidator shall also follow up the pending applications, if any, for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- 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 financial creditors, corporate debtor and the Liquidator for taking necessary steps.

j. I.A.1900(PB)/2020 filed in  
IB-1096(PB)/2019 is disposed of in the  
aforesaid terms.

Sd/-

**(B.S.V PRAKASH KUMAR)**  
**ACTG. PRESIDENT**

Sd/-

**(HEMANT KUMAR SARANGI)**  
**MEMBER (T)**