



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court -II)  
KOLKATA**

**IA(IBC)/1014(KB)2022  
in  
CP(IB)/882(KB)2019**

*Under section 33 of the Insolvency & Bankruptcy Code, 2016*

*In the matter of*

Union Bank of India

...Financial Creditor

*Versus*

Bansal Oil Extraction Private Limited.  
(CIN: U15141WB1994PTC063075)

...Corporate Debtor

*And*

*In the matter of*

Mr. Yogesh Gupta,

Resolution Professional of Bansal Oil Extraction Private Limited

... Applicant

Order reserved on: 19/10/2022

Order pronounced on: 18/11/2022

*Coram:*

Shri Rohit Kapoor

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

*Appearances (through video conferencing):*

For RP

: Mr. Rahul Auddy, Adv.  
Mr. Aditya Gooptu, Adv.



**ORDER**

***Per: Rohit Kapoor, Member (Judicial)***

1. This Adjudicating Authority convened through hybrid mode.
2. IA(IBC)/1014(KB)2022 is an application filed by the Resolution Professional (“RP”) of Bansal Oil Extraction Private Limited, the Corporate Debtor, seeking liquidation of the Corporate Debtor. This application is duly supported by an affidavit<sup>1</sup> affirmed by Mr. Yogesh Gupta, RP.
3. This Adjudicating authority *vide* order dated 10/05/2022 in CP(IB)/882(KB)2019 had ordered initiation of Corporate Insolvency Resolution Process (“CIRP”) against the Corporate Debtor and appointed Mr. Yogesh Gupta as the Interim Resolution Professional (IRP).
4. Public Announcement was published on 12/05/2022 in “*Financial Express*” (English) and “*Aajkal*” (Bengali). In response, two claims were received till the last date of filing claim, i.e., 24/05/2022; one from the petitioning Financial Creditor and the other from the Commissioner of Commercial Taxes, West Bengal, unsecured Operational Creditor. In compliance of section 21 of the IBC, 2016, Committee of Creditors (“CoC”) was duly constituted with sole member, petitioning Financial Creditor. The CoC at its meeting held on 09/06/2022 has confirmed the appointment of the IRP as the Resolution Professional (RP). Altogether three CoC meetings were held by the IRP/RP.
5. IRP by e-mail dated 11/05/2022 to the suspended members of the Board of Directors of the Corporate Debtor informed them about initiation of CIRP against the Corporate Debtor and requesting them to handover control over the factory site, Registered Office and all other business premises, all the assets, books of accounts, records, etc. relating to the Corporate Debtor to the

---

<sup>1</sup> At pages 13 to 15 of the application



RP. Reminder e-mails was also sent to them. Thereafter, one of the suspended members of the Board of Directors of the Corporate Debtor, Mr. Raj Kumar Agarwal, vide e-mail<sup>2</sup> dated 26/05/2022 informed the IRP that on 17<sup>th</sup> July, 2017, the bankers of the Corporate Debtor, Corporation Bank (now Union Bank of India) had taken possession of their office located at 113, Park Street, 7<sup>th</sup> Floor, Kolkata 700016 under SARFAESI Act, 2002.

6. At the 2<sup>nd</sup> CoC meeting<sup>3</sup> held on 15/07/2022, the RP informed the participants that the Registered Office and the Plant & Machineries of the Corporate Debtor have been sold by the Union Bank of India under the SARFAESI Act, 2002 prior to the commencement of CIRP on 10/05/2022 and that the Corporate Debtor's factory situated at Katwa, Burdwan is non-operational since the year 2015. At the said 2<sup>nd</sup> CoC meeting, the representative from Union Bank of India had recommended for liquidation of the Corporate Debtor, since there were no operations and it was not a going concern as well as all the substantial plant and machineries were sold prior to commencement of CIRP. Only major asset remaining to be sold is Factory Land and Building,
7. As is evident from page 40 of the application, the Chairman informed that the representatives from Union Bank of India have recommended for liquidation of the Corporate Debtor in the Committee of Creditors Meetings held on 09/06/2022 and 15/07/2022, since the Corporate Debtor is not having any operations and is not a going concern and Union Bank does not expect any resolution plan and hence preferred for Liquidation and to proceed for the liquidation process and following resolutions were passed at the 3<sup>rd</sup> CoC meeting held on 28/07/2022:

*“RESOLVED that the Corporate Debtor be and is hereby recommended for liquidation in terms of section 33(1) of IBC”.*

---

<sup>2</sup> Annexure “A” at pages 16 to 17 of the application

<sup>3</sup> Annexure “B” at pages 18 to 32 of the application



8. At the 3<sup>rd</sup> CoC meeting<sup>4</sup> held on 28/07/2022, the CoC with 100% voting share has passed resolutions recommending to initiate liquidation process against the Corporate Debtor and appointment of the existing RP as the Liquidator of the Corporate Debtor.
9. RP has duly annexed a copy of Authorisation for Assignment<sup>5</sup> (AFS) dated 22/02/2022 valid till 21/02/2023.
10. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
11. On conjoint reading of these two provisions, this Adjudicating Authority is left with no option but to order liquidation of the Corporate Debtor.
12. This Bench, therefore, hereby orders as follows: -
  - a. IA(IBC)/1014(KB)2022 filed by **Yogesh Gupta, RP of Bansal Oil Extraction Private 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;
  - b. **Mr. Yogesh Gupta, RP [Reg. No. IBBI/IPA-001/IP-P00349/2017-2018/10650]**, having e-mail i.d. [yogeshgupta31@rediffmail.com](mailto:yogeshgupta31@rediffmail.com) is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a

<sup>4</sup> Annexure “C” at pages 33 to 43 of the application

<sup>5</sup> Annexure “D” at page 44 of the application



professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019. He is also directed to submit his consent to act as a Liquidator in this matter.

c. 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.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., “*Financial Express*” (English) and “*Aajkal*” (Bengali) stating that the Corporate Debtor is in liquidation.

e. 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.

f. 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.

g. 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.

h. 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.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this



IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court II)

IA(IBC)/1014/KB/2022  
in CP (IB)/882(KB)2019

---

Order with the **Registrar of Companies, West Bengal**, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the **Registrar of Companies, West Bengal**.

13. The application bearing **IA(IBC)/1014(KB)2022** shall stand disposed of in accordance with the above directions.
14. **CP(IB)/882(KB)2019** is to come up for filing of periodical progress report on **04/01/2023**.
15. 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.
16. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Rohit Kapoor**  
**Member (Judicial)**

Signed on this, the 18<sup>th</sup> day of November, 2022.

hb.