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**THE NATIONAL COMPANY LAW TRIBUNAL
COURT-IV
AT NEW DELHI
I.A. 5175/2020
&
IA 4559/2021
IN
Company Petition No. (IB) – 05 (ND)/2019**

In the matter of:

Ashtbhuj Ocean Movers Pvt. Ltd.

Operational Creditor

V.

M/s Sarash Exports Services Private Limited

Corporate Debtor

AND

In the matter of:

Mr. Sushil Kumar

Applicant/Resolution Professional

*Under Section 33(2) of the Insolvency and Bankruptcy Code,
2016 for liquidation of the corporate debtor*

Judgment delivered on: 23.12.2021

CORAM:

SH. DHARMINDER SINGH, HON'BLE MEMBER (JUDICIAL)

SH. PRASANTA KUMAR MOHANTY, HON'BLE MEMBER TECHNICAL)

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ORDER



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20/12/2022

Per- Sh. Dharminder Singh, Member (Judicial)

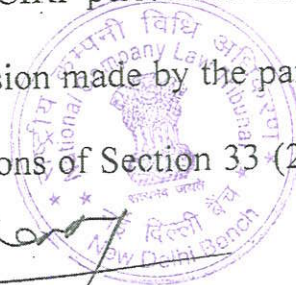
1. The present application i.e. IA 5175/ND/2020 has been filed by the Resolution Professional under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the Corporate Debtor, Sarash Exports Services Private Limited. Further, IA 4559/ND/2021 has also been filed by the same applicant for appointment of Mr. Umesh Chand Goyal as Liquidator of Corporate Debtor.
2. Since, the prayers of both the applications are interconnected to each other, we shall dispose both the applications by this common order.
3. 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 30.09.2019 initiating CIRP against the corporate debtor and appointed Mr. Rajeev Raizada, as the Interim Resolution Professional (IRP).
4. Thereafter the IRP made the Public Announcement in 'Form A' in respect of initiation of CIRP of Corporate Debtor as well as intimated all-suspended directors of the Corporate Debtor. The IRP after collecting and verifying claims received, constituted the Committee of Creditors (CoC).

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5. Subsequently, due to imposition of nationwide lockdown, the period of CIRP was extended by this Tribunal on an application filed by the erstwhile Resolution Professional till 13.12.2020 vide order dated 21.10.2020.
6. Thereafter, on approval by CoC in the 6th meeting held on 31.08.2020 the erstwhile resolution professional published the Invitation for Expression of Interest, in prescribed Form-G.
7. On 30.09.2020, in 7th meeting of CoC, it was decided to appoint applicant as Resolution Professional replacing the erstwhile resolution professional. The CoC in its 9th meeting held on 09.11.2020 resolved to initiate liquidation proceeding of corporate debtor since no resolution plan was received after publication of Form-G.
8. The CoC in its 11th meeting held on 28.09.2021, the CoC at Agenda Item no. 9 has approved the appointment of Mr. Umesh Chand Goyal (IBBI Registration. No. IBBI/IPA-001/IP-P-01876/2019-20/12974) as the Liquidator of the Corporate Debtor. Written consent of Mr. Umesh Chand Goyal has been placed on record.
9. The applicant has now filed present application with a prayer for liquidation of the Corporate Debtor as there is no resolution plan approved by CoC and the CIRP period has ended.
10. In view of the submission made by the parties the liquidation has to follow in terms of provisions of Section 33 (2) of the Code. Adherence



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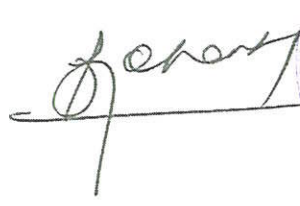
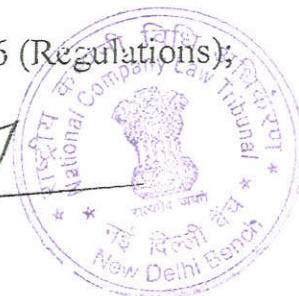
to statutory requirement has to be in toto. When the language of the Code is clear and explicit, the Adjudicating Authority must give effect to it and in present case the consequence is liquidation of Corporate Debtor.

11. In the factual background, since there is no approved resolution plan, **the payer for liquidation of the corporate debtor under Section 33 (2) of the Code is hereby allowed.**

12. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. Sarash Exports Services Private Limited in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

a. Mr. Umesh Chand Goyal, IBBI Registration. No. IBBI/IPA-001/IP-P-01876/2019-20/12974, email id: goyaluc.ip@gmail.com is hereby appointed as Liquidator in terms of Section 34(1) of the Code.


b. Mr. Umesh Chand Goyal, 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);


20/12

- 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 Code shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the 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 Code 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 (1) of the Code.
- g. The liquidator shall also follow pending application, 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 Regulations.







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- i. The Liquidator is directed to ensure that the Liquidation process is completed within a period of one year from the date of this order as provided under Regulation 44 of the Liquidation process.

Consequently, both these applications i.e. I.A. 5175/2020 & IA 4559/2021 filed in IB 05 (ND) /2019 stand allowed.

Copy of this order be sent immediately to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

— Sd —

(PRASANTA KUMAR MOHANTY)
MEMBER (T)

— Sd —

(DHARMINDER SINGH)
MEMBER (J)



Sd
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003
20.1.2022