

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**IA/152/2020 & IA/368/2021**

**IN**

**(IB)/102(PB)/2017**

*Application filed under section 33(1)(a) of the IBC, 2016*

**In the matter of**

**DBS Bank Ltd.**

*---Financial Creditor*

**Vs.**

**Edu Smart Services Private Limited**

*---Corporate Debtor*

**And**

**In the matter of**

**Ritu Rastogi**

*---Applicant/Resolution Professional for Edu Smart Services Private Limited*

**---Applicant/Resolution Professional**

**Order delivered on: 23.03.2021**

**CORAM:**

**SHRI B.S.V PRAKASH KUMAR**

**HON'BLE ACTG. PRESIDENT**

**SHRI HEMANT KUMAR SARANGI**

**HON'BLE MEMBER (TECHNICAL)**

For the Applicant: Mr. Sumesh Dhawan & Ms. Vatsala Kak, Advocates

**ORDER**



**Per: B. S.V. PRAKASH KUMAR, ACTING PRESIDENT**

**Order Pronounced on: 23.03.2021**

It is an IA/152/2020 filed by RP seeking exclusion of period spent in litigation from the total time period of Corporate Insolvency Resolution Process and the same was pending adjudication before this Tribunal. Simultaneously, RP filed another application IA/368/2021 u/s 33(1)(a) of the Insolvency & Bankruptcy Code, 2016 (“the Code”) by the Resolution Professional (RP) seeking liquidation order, as contemplated under I&B Code, 2016. RP has stated that the extended period of CIRP concerning the Corporate Debtor has expired and moreover, no resolution plan was received during CIRP period.

2. On perusal of both the applications, it appears that this (IB)-102(PB)/2017 was admitted on 27.06.2017 and the Applicant herein was appointed as IRP and he invited claims from the creditors and constituted CoC. After expiring of CIRP period, this Bench granted extension of 30 days and 60 days on 20.12.2017 and 23.01.2018 respectively. Simultaneously, this Bench dismissed the application filed by Axis Bank for including them in CoC, which was further



appealed by Axis Bank and was allowed by the Hon'ble NCLAT via order dated 14.08.2018. Hence a fresh CoC was constituted.

3. In furtherance of it, a joint lender meeting of the lenders of the Corporate Debtor and Corporate Guarantee holders was convened by one of the lenders on 25.11.2020 and decided to liquidate with absolute majority, as no resolution plan was received and 330 days of CIRP was expired.

4. Before parting, it is significant to note that this Tribunal is appalled to notice the fact that the Corporate Debtor whose liquidation value is arrived at a sum of Rs.23.78 Crores, has stood as a Corporate Guarantor for its holding Company viz. M/s. Educomp Solutions Limited, for a debt exposure of Rs.1773.97 Crores, over which the following banks have disbursed the sum as follows:

S.NO.	NAME OF THE FINANCIAL CREDITOR	AMOUNT ADMITTED (RS. IN CRORE)
1	IDBI Bank Ltd.	523.19
2	Axis Bank	396.76
3	State Bank of India	361.53
4	Union Bank of India	137.06
5	Central Bank of India	112.12
6	Standard Chartered Bank	81.29
7	ICICI Bank	86.45
8	Canara Bank	75.57
	<b>TOTAL</b>	<b>1,773.97</b>



This Tribunal is unable to comprehend as to how the Financial Creditors, without carrying on any due diligence nor assessing the liquidity of the Corporate Debtor, provided huge sum of loan to M/s. Educomp Solutions Limited, by taking guarantee from the Corporate Debtor, whose debt exposure is 112.55 Crores. This shows some serious lapses on the part of the Financial Creditors in lending away the money of the public exchequers. In such a piquant circumstance, we hereby direct the Registry of this Tribunal to send a copy of this order to Reserve Bank of India, (RBI) for its information. Looking at the application and averments thereof, we are of the considered opinion that this is a fit case for liquidation, therefore, we hereby order for liquidation of the company with directions as follows:

- a. The **Ms. Ritu Rastogi**, holding Registration No. **IBBI/IPA-001/IP-P00204/2017-2018/10393**, having email: **ritu\_rastogi@yahoo.co.in** is appointed as the Liquidator in terms of Section 34 of the Code;
- b. 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;



- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
- f. The Liquidator shall follow up and continue to 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 up the pending applications 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, the Liquidator and RBI for taking necessary steps;
- j. the IA/368/2021 filed by the RP for Liquidation of the Corporate Debtor stands **allowed** and IA/152/2020 seeking exclusion of period spent in litigation stands **closed**.

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**(BSV PRAKASH KUMAR)**  
**ACTNG PRESIDENT**

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**(HEMANT KUMAR SARANGI)**  
**MEMBER (TECHNICAL)**

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