

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

IA No.2511(PB)2023

IN

CP (IB) No.355(PB)/2022

(Application under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.)

In the matter of:
Bank of Baroda

... Financial Creditor

Versus

M/s Lord Vrindavanbihari Trading Pvt. Ltd.

...Corporate Guarantor

And

In the matter of:

Sajjan Kumar Dokania

(RP of Lord Vrindavanbihari Trading Pvt. Ltd.)

...Applicant

Order pronounced on:06.10.2023

Coram:

Chief Justice (Retd.) Ramalingam Sudhakar : Hon'ble President

Shri Avinash K. Srivastava : Hon'ble Member (Technical)

Appearances :

For the RP : Sajjan Kumar Dokania, RP, Adv. Ishwar Mohapatra

ORDER

1. This is an application filed by the Resolution Professional ('RP') upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Guarantor, viz., Lord Vrindavanbihari Trading Pvt. Ltd.[CIN: **U16007UP2004PTC028385**], on the ground that no resolution is possible in case of the corporate debtor. The Applicant has sought for the following reliefs:

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- a. Allow the present application for liquidation of the Corporate debtor and pass appropriate orders under IB Code, 2016;*
- b. Pass such other order(s)/ direction(s) which this Adjudicating Authority may deem necessary in the facts and circumstances of the present case.*
2. This Adjudicating Authority, *vide* its order dated 30.01.2023 on a Petition filed by the Financial Creditor namely, Bank of Baroda under section 7 of the Insolvency and Bankruptcy Code, 2016 (*the Code*), directed initiation of the Corporate Insolvency Resolution Process (*CIRP*) against the Corporate Guarantor and appointed the applicant Mr. Sajjan Kumar Dokania as the Interim Resolution Professional (*IRP*) who was later confirmed as RP *vide* order of this Adjudicating Authority dated 07.06.2023.
3. The Applicant submits that Form G was published in newspapers namely Times of India(English) New Delhi and Agra Edition on 01.02.2023 and in Amar Ujala(Hindi) Agra Edition on 02.02.2023 and on and after collation of claims, the CoC was constituted on 28.02.2023 with the sole member:

Financial Creditor	Voting Share
Bank of Baroda	100%

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4. It is stated that upon verification of the audited balance sheets for the last 3 years by the RP, it was found that the corporate debtor has no turnover since last 4 years and there is no fixed assets in the company, thus it seems no possibility of any resolution of the corporate debtor.
5. Further, COC was also of the view that since there are no major records or assets available with the company, no resolution is possible as such. Thus, in absence of any possibility of getting resolution plan, the CoC in the 2nd COC meeting held on 21.03.2023, with 100% voting share recommended for liquidation of the Corporate Guarantor and to appoint the present RP; Mr. Sajjan Kumar Dokania as liquidator of the Corporate Debtor.
6. Hence, the RP has filed the present application under section 33(2) of the Code, before this Adjudicating Authority for liquidation of the Corporate Debtor and appointment of Mr. Sajjan Kumar Dokania as liquidator who has also given his consent for the appointment which is annexed as Annexure A8 of the application.
7. It is strange that though the Corporate Guarantor who stood guarantee to the Principal borrower NIIL Infrastructure Pvt. Ltd. (already admitted into CIRP by order of NCLT Principal Bench, dated 28.03.2018) has no

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assets nor turnover since last 3-4 years, yet there is nothing on record to show whether Bank of Baroda took any step to replace the guarantor or to secure fresh guarantees from the principal borrower.

8. Taking into consideration the IBBI circular dated 08.07.2023 Circular No. Liq-12011/214/2023-IBBI/840 in which it is stated that Section 34(4)(b) provides that the AA shall replace the RP if the board recommends the replacement for reasons to be recorded and reviewing the performance of processes under the Code where there is meagre 4% average realisation against the admitted claims during liquidation processes whereas in CIRP there is average realisation of 32%, thus it necessitated for fresh perspective in the liquidation process and replacement of RP to act as liquidator, therefore, it is considered by the Board that Adjudicating Authority may appoint a new IP as liquidator, thus we appoint Mr. Vikram Sharma Registration No. IBBI/IPA-001/IP-P-02533/2021-2022/13876 as the liquidator from the list provided by IBBI replacing the RP to continue with the liquidation process. The appointed liquidator is directed to submit his consent within one week of this order.
9. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A.No. 2511 (PB)/2023 filed by Mr. Sajjan Kumar Dokania, RP of Lord Vrindavanbihari Trading Pvt. Ltd, the Corporate Guarantor, is allowed and the Corporate Guarantor is

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ordered to be liquidated in terms of section 33(2) of the Code read with Explanation 1.

- b. Mr. Vikram Sharma [Reg. No. IBBI/IPA-001/IP-P-02533/2021-2022/13776; Email: ipvikramsharma@gmail.com;], is hereby appointed as liquidator as provided under section 34(1) of the Code.
- 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 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. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under section 33(5) of the code shall commence. 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

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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. 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.

j. 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.

k. The Liquidator shall submit 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;

10. The Liquidator and the Registry are directed to send the copy of this order within 7 days from the date of this order to the the Registrar of Companies, NCT of Delhi & Haryana. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.

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11. The application bearing **IA No. 2511/2023** stand disposed of in accordance with the above directions.
12. 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.
13. A copy of this order shall also be forwarded to the IBBI, and concerned parties for their record.
14. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**RAMALINGAM SUDHAKAR
PRESIDENT**

**AVINASH K. SRIVASTAVA
MEMBER(TECHNICAL)**