

IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT III  
NEW DELHI

IA-5415/2020 filed under Section 33 (2) of the IBC  
Code, 2016 in CP (IB)-643/ND/2018.

In the matter of A to Z Barter Private Limited.

Inox Leisure Limited

.... Operational Creditor

Versus

A to Z Barter Private Limited

.... Corporate Debtor

In the matter of IA- 5415/2020 filed under section 33(2).

Anoop Kumar Goyal,

RP for A to Z Barter Private Limited, (CD).

.... Applicant

Order delivered on 4<sup>th</sup> January, 2021.

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

Shri NARENDRA KUMAR BHOLA, MEMBER (TECHNICAL)

For Applicant: Mr. Ashok Juneja (Advocate)

**ORDER**

(Through Video Conferencing)

Per. CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. This Application is filed by the Resolution Professional viz., *Mr. Anoop Kumar Goyal* (hereinafter referred as "Resolution Professional"), under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC, 2016") seeking liquidation of the Corporate Debtor viz., *A to Z Barter Private Limited*, based on the resolution passed by the Committee of Creditors in its 5<sup>th</sup> CoC Meeting on 03.11.2020. The other prayers made in the Application are:

*"a) To consider to pass an Order and issuance of directions for liquidation of the Corporate Debtor A to Z Barter Private Limited under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016.*

*b) To appoint the liquidator in the present matter.*

*c) To direct the CD and/or CoC to remit the amount of Rs. 26,25,578/- towards expenses and fees of the RP and Counsel before handing over the charge to the liquidator.*

*d) To pass such other Order/direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."*

2. On perusal of the Application, it appears that the Company Petition No. IB- 643 (ND)/2018 filed by the Operational Creditor viz., *Inox Leisure Limited* against the Corporate Debtor viz., *A to Z Barter Private Limited* (hereinafter referred as "Corporate Debtor"), under Section 9 of IBC, 2016 R/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 was admitted by the Adjudicating Authority vide Order dated 05.12.2018. The CIRP was initiated against the Corporate Debtor by appointing IRP namely, Mr. Anoop Kumar Goyal.
3. It is averred that pursuant to the Order of this Authority which was received by the IRP in the month of November 2019. The IRP filed an application before this Authority for exclusion of time period and vide Order dated 10.12.2019 passed in CA-862/C-III/ND/2019, a period of 370 days was excluded from the

maximum period of the CIRP and the Operational Creditor was directed to deposit Rs. 2.50 lakhs.

4. Subsequently, the IRP made public announcement on 16.12.2019 in newspapers viz., Financial Express (English Edition) and Jansatta (Hindi Edition). The IRP collated all the claims submitted by the creditors in response to the public announcement and constituted the Committee of Creditors (hereinafter referred as "CoC") which comprises of one Operational Creditor having 100% voting power. In 1<sup>st</sup> CoC meeting convened on 13.01.2020 a resolution was passed to continue the IRP as Resolution Professional of the Corporate Debtor at a remuneration of Rs. 2,00,000/- per month plus applicable taxes and out of pocket expenses. The 2<sup>nd</sup> CoC Meeting was convened on 22.01.2020. The Applicant had received a claim from one of the Operational Creditor viz., *Qube Cinema Technologies Private Limited* on 25.02.2020 for an amount of Rs. 12,62,905/- and consequently after verifying the said claim the Resolution Professional admitted the claim to the extent of Rs. 11,21,177/- on 11.03.2020. The Resolution Professional has filed an application under Section 60 (5) of IBC, 2016 against the Operational Creditor to cooperate with the Resolution Professional for smooth conduct of CIRP and to remit the fees and expenses incurred by the Resolution Professional.
5. The 3<sup>rd</sup> CoC Meeting was convened on 17.03.2020 and the Resolution Professional filed an application for adding the Operational Creditor viz., *Qube Cinema Technologies Private Limited* in the CoC and vide Order dated 02.09.2020 the Operational Creditor was added as a member of the CoC. Further, the Resolution Professional was also directed to file the amended memo of parties. The Resolution Professional also filed an application under Section 19 (2) of IBC, 2016 before this Authority.
6. Vide Order dated 09.11.2020 the penalty of Rs. 10 lakhs (Rs. 5 Lakh each on both the directors) was levied to be deposited to the Account of the Government of India, Ministry of Corporate Affairs within a period of four weeks from the date of the Order because no information/records has been made available to the Resolution Professional despite giving several opportunities.

The Resolution Professional has also filed an application under Section 66 (1) R/w Section 60 (5) of IBC, 2016 for directions to the directors of the Suspended Board of the Corporate Debtor on violation of the Moratorium imposed, by siphoning off funds from the Bank Account of the Corporate Debtor and to reverse the unauthorised transactions of amount of Rs. 16,50,000/-Rs. 10,00,000/- dated 20.12.2019 and Rs. 5,50,000/- dated 13.02.2020 aggregating to Rs. 32,00,000/- and vide Order dated 09.11.2020 the members of Suspended Board of the Corporate Debtor were directed to deposit an amount of Rs. 32,00,000/- along with interest @12% P.A. from the date of the withdrawal and deposit the total amount to the account of the Corporate Debtor being maintained by the Resolution Professional within a period of 21 days from the date of the Order and to file an affidavit of compliance.

7. The Resolution Professional convened a meeting on 03.11.2020 of the CoC in compliance of Order dated 19.10.2020 and a decision regarding the liquidation of the Corporate Debtor was approved by the CoC with 100% voting power. The resolution passed is as follows: -

*"The CoC, with 100% voting share, resolved to authorise the RP to file an application before the Hon'ble NCLT, New Delhi Bench for initiation of liquidation of the Corporate Debtor, pursuant to Section 33 (2) of the IBC, 2016."*

8. The Applicant has not given consent for appointment as Liquidator in the matter of Corporate Debtor and the members of the CoC (with the 100% voting share) abstained from voting on the resolutions under Regulation 39B, 39C and 39D of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. It is further stated that an amount of Rs. 26,25,578/- is due towards the payment of fees and expense of the Applicant and the Counsel.

### **ORDER**

9. In view of the facts and circumstances, this Authority is satisfied that the Application IA-5415/2020 filed for initiation of Liquidation proceedings against the Corporate Debtor is a fit case for ordering **liquidation** of the Corporate Debtor namely, *A to Z Barter Private Limited* in the manner laid down in the Chapter III of Part II of IBC, 2016 and the same is **allowed** with the directions as follows: -

I. This Authority appoints the Insolvency Professional Mr. Sanjay Garg whose name appears in the list of the Insolvency Professionals provided by the IBBI to NCLT Delhi, having Registration number: IBBI/IPA-001/IP-P01865/2019-2020/12919; E-mail ID: [kronedelhi@gmail.com](mailto:kronedelhi@gmail.com) as Liquidator for A to Z Barter Private Limited.

II. The Resolution Professional viz., *Mr. Anoop Kumar Goyal* is discharged as he has not given consent and is directed to handover the charge to the Liquidator appointed by this Authority.

III. All the powers of Board of Directors, key Managerial Personnel, and partners of the Corporate Debtor, as the case may be shall cease to have effect and vest with the Liquidator. The Personnel of the Corporate Debtor are hereby directed to extend all cooperation to the Liquidator as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as Liquidator will charge fees for the conduct of liquidation proceedings in the proportion to the value of the liquidation estate assets as specified under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of IBC, 2016.

IV. Mr. Sanjay Garg 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.

- V. Since the Liquidation Order is being passed, no suit or other legal proceedings shall be initiated by or against the corporate Debtor without prior approval of this Adjudicating Authority, save and except as mentioned in sub section 6 of the Section 33 of the Code
- VI. This Authority makes it clear that Para (V) herein above shall not apply to legal proceedings in relation to such transactions as notified by Central government in consultation with any financial sector regulator.
- VII. The Liquidation Order shall be deemed to be the notice of discharge to the officers, employees, workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- VIII. The Counsel and erstwhile RP is directed to communicate this Order to the Liquidator, the Registrar of Companies, NCT of Delhi & Haryana, to the Insolvency and Bankruptcy Board of India and IT Department including Assessing IT Officer of the IT Circle.
- IX. The Order of Moratorium passed under Section 14 of the IBC, 2016 shall cease to have its effect from the date of the order and that a fresh Moratorium under Section 33(5) of IBC, 2016 shall commence.
- X. 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.
- XI. The Liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (I) of the Code.
- XII. The Liquidator shall also follow up the pending applications for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

XIII. 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.

XIV. Copy of this Order shall be sent by the liquidator to the financial creditors, corporate debtor for information and compliance.

10. In terms of the above, IA-5415/2020 filed in IB-643/ND/2018 is **allowed**.

11. Order is pronounced through video conferencing.

- Sd -

**NARENDRA KUMAR BHOLA**  
Member (Technical)

- Sd -

**CH. MOHD SHARIEF TARIQ**  
Member (Judicial)