

**THE NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. IV  
AT NEW DELHI**

**CA No.3218/2020**

**IN**

**Company Petition No. (IB)-475(ND)/2018**

*Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the corporate debtor*

**IN THE MATTER OF:**

**Mr. Abhishek Dutta,**

**Resolution Professional for Solutions Business Centre Pvt. Ltd. ....Applicant**

**AND IN THE MATTER OF**

**Mrs. Renu Kumar**

**...Operational Creditor**

**Versus**

**M/s Solutions Business Centre Pvt. Ltd.**

**...Corporate Debtor**

**Order delivered on:20.05.2021**

**Coram:**

**DR. DEEPTI MUKESH**

**HON'BLE MEMBER (Judicial)**

**MS. SUMITA PURKAYASTHA**

**HON'BLE MEMBER (Technical)**

**Memo of parties**

**Abhishek Dutta,**

**Resolution Professional for Solutions Business Centre Pvt. Ltd.**

D-306, 3rd Floor, Defence Colony, New Delhi - 110024

...Applicant

**IN THE MATTER OF:**

**Mrs. Renu Kumar**

R/o A —1017, Vasant Vihar New Delhi - 110057

... Operational Creditor

**Versus**

**M/s Solutions Business Centre Pvt. Ltd.**

**Registered Office at - H -69, UGF, Above HDFC Bank,**

Outer Circle, Connaught Place Delhi Central, Delhi - 110001

... Corporate Debtor

**For Resolution Professional :**Mr. Abhishek Dutta, RP in person with Ms. Sayli Petiwale  
**For the Respondent:**Mr. Raja Chhatterjeet, Adv.

## ORDER

**Dr. Deepti Mukesh, Hon'ble Member (J)**

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (**hereinafter referred as the “Code”**) for issuance of directions for liquidation of the corporate debtor, M/S Solution Business Centre Private Limited.
2. The facts in brief are that the operational creditor, Mrs Renu Kumar had filed an application bearing no. IB 475(ND)/2018 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this tribunal vide order dated 14.03.2019 and Mr. Harish Goyal appointed as Interim Resolution Professional (IRP) and was confirmed as RP. The RP further submits an application before Adjudicating Authority to replace Former RP was filed by the member of the CoC of the corporate debtor and this bench vide its order dated December 16, 2019 approved appointment of Abhishek Dutta as the Resolution Professional, in place of Former RP.
3. The RP submits that the present application under section 9 of the I & B Code, 2016 was filed in April, 2018, there the corporate debtor filed its reply in October 2018. The RP further submits that thereafter Corporate Debtor in and around December 2018 converted its status to a limited liability partnership on 10.12.2018. The conversion was done during the pendency of the insolvency proceedings before this bench as well as another bench.

4. The RP submits that an application for invalidating conversion of Corporate Debtor to LLP had been filed before this bench bearing CA No. 1248ND/2020, which was allowed vide order dated 17.05.2021, invalidating the conversion of the corporate debtor to LLP.
5. The RP appointed a Forensic Auditor in the Eighth meeting of the CoC dated February 20, 2020. In the Ninth meeting of the CoC dated March 14, 2020, the Forensic Auditor informed the CoC that the financial statements of the Corporate Debtor does not reflect debts and that there are no moveable/immovable assets reflected in the balance sheet of the Corporate Debtor. The RP further submits that the Forensic Auditor's report further mentions the fact that the Corporate Debtor has discharged certain loans towards certain persons, some of whom may have been or continue as key managerial persons or relatives of the Corporate Debtor. The forensic report further states that the debt of the present CoC members who are operational creditors, are not reflected in the books of accounts of the corporate debtor. Though the present insolvency application filed under section 9 was admitted based on proving operational debt by one of such lessors.
6. The RP submits that in Tenth meeting held on 03.06.2020, the RP intimated the COC member about the not receiving any relevant documents, books of accounts and total non-cooperation of the ex-directors of the corporate debtor. Moreover, the CIRP period of 330 days was expiring on 21.07.2020 and because the corporate debtor does not have any asset/business nor any income, the COC deliberated on the facts and came to conclusion to liquidate the corporate debtor

which is the only option left under the provisions of the code. The CoC with more than 66% voting share passed following resolution:

*‘Resolved that the Resolution Professional is hereby directed to file an application before the Adjudicating Authority for initiation of liquidation proceedings against the corporate debtor and its successor in interest’*

7. The RP accordingly filed present application under section 33 of IBC seeking liquidation of corporate debtor. The provisions of section 33 of IBC which are relevant are reproduced hereunder;

“33.(1) Where the Adjudicating Authority, —

- (a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or
- (b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—
  - (i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;
  - (ii) issue a public announcement stating that the corporate debtor is in liquidation; and
  - (iii) require such order to be sent to the authority with which the corporate debtor is registered.”

8. In the above circumstances and taking into consideration the facts as well as law, we think it proper to order the liquidation of the corporate debtor. The

corporate debtor stands liquidated and the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

- a. Since the COC has not proposed the name of the liquidator, we appoint Mr. Abhishek Dutta, the present Resolution Professional to act as liquidator.
- b. Mr. Abhishek Dutta holding registration no. IBBI/IPA- 002/ IP-N00817/2018-19/11856, is appointed as Liquidator and should give his consent to act as the liquidator under section 34 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- c. Mr. Abhishek Dutta 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;
- d. 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;
- e. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly in relation to other fiscal and regulatory

authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation

- f. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- g. This order is 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;
- h. 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 regulations.
- i. 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.
- j. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.
- k. The present application filed under section 33 is allowed and disposed of in the aforesaid terms.

1. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor and the Liquidator at the earliest but not later than seven days from today. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

**Sd/-**  
**(MS. SUMITA PURKAYASTHA)**  
**MEMBER (T)**

**Sd/-**  
**(DR. DEEPTI MUKESH)**  
**MEMBER (J)**