

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, DELHI  
BENCH III**

IA/1982/2020 filed in  
IB-431(ND)/2019 U/S 33 of the  
Insolvency and Bankruptcy Code,  
2016.

**In the matter of RGTL Industries Ltd.**

**Mr. Anshul Gupta**, Resolution Professional.

*... Applicant.*

*Order delivered on 9<sup>th</sup> of November, 2020*

**CORAM:**

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

**SHRI NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)**

**Parties / Counsels present**

For Resolution Professional	:	Satish Rai (Advocate)
For Suspended Board of Directors:		Ankita Bajpai (Advocate)
For Bank of Maharashtra:		Nishant Awana (Advocate)
		with Nitish Saxena (L.O)

## ORDER

**Per, NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)**

1. This relates to I.A. NO. 1982/2020 filed in IB- 431(ND)/2019 by Anshul Gupta (hereinafter referred to as 'Resolution Professional') under Section 33 of the Insolvency and Bankruptcy Code, 2016. The prayer made in the Application is to pass an order of liquidation pertaining to the Corporate Debtor (CD) viz., M/s. RGTL Industries Limited.

2. Originally IB- 431(ND)/2019 filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 read with Rule 6 of IBBI (Application to adjudicating authority) Rules, 2016 by the operational creditor was admitted by this Authority vide Order dated 10.04.2019, the CIR Process was initiated against the Corporate Debtor and the Applicant viz., Mr. Anshul Gupta was appointed as Interim Resolution Professional (IRP). Later on, IRP was confirmed as RP by the Committee of Creditor (CoC) with 84.97% votes casted in favour of the Applicant, the Applicant carried out its duties in accordance with the provisions of the IBC and the rules made thereunder with respect to the CIRP of the CD.

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IA-1982/2020 in IB-431(ND)/2019

3. It is submitted by the applicant that in the 11<sup>th</sup> Meeting of CoC held on 4<sup>th</sup> of March, 2020, the members of the CoC decided for liquidation of the Corporate Debtor since the resolution plan could not be approved with the requisite 66% of voting share. Also, CoC approved the name of the applicant to act as a liquidator of the CD in case the order of liquidation is passed by the Learned Adjudicating Authority under section 33 of the IBC, 2016. The Applicant also annexed a detailed closure report with respect to CIRP of the CD.

4. It is further submitted by the applicant that the learned adjudicating authority is vested with the power to pass an order of liquidation of the CD since no resolution plan could be brought forth and voted for and in absence of any Resolution Plan on the table, the order of liquidation may be passed by the adjudicating authority under section 33 of the IBC, 2016. The applicant also quoted the relevant extract of the section 33 of the IBC, 2016:

*“(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 shall-*

*(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in the chapter;*

*(ii) issue 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.*

*(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating*

*Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).*

5. It was averred that the present application is made on behalf of the applicant in the most *bona fide* manner and in the interest of justice since the last date of the conclusion of CIRP is 13<sup>th</sup> of March, 2020.

6. The Committee Members took the decisions as follows; -

(i) Resolved that the Corporate Debtor namely RGTL Industries Limited, be liquidated and Mr. Anshul Gupta, RP be and is hereby authorised to file an application with the Adjudicating Authority in this regard.

(ii) Mr. Anshul Gupta to be appointed as the Liquidator of the Corporate Debtor RGTL Industries Limited subject to the approval of liquidation by the Learned Adjudicating Authority.

7. Since no resolution plan has been received by this adjudicating authority for the approval till the expiration of CIRP period, hence, the Corporate Debtor has to be ordered for liquidation.

8. In view of the facts and circumstances recorded by Resolution Professional in I.A. NO. 1982/2020 filed in IB-431(ND)/2019 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows: -

- I. This Authority hereby orders for liquidation of the Corporate Debtor (CD) viz., M/s. RGTL Industries Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the Insolvency & Bankruptcy Code, 2016;
- II. This Authority hereby appoints Mr. Anshul Gupta as Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

- III. The moratorium declared under Section 14 of the Insolvency & Bankruptcy Code, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the Insolvency & Bankruptcy Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- VI. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the

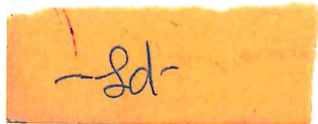
Corporate Debtor is continued during the liquidation process by the Liquidator.

- VII. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Company Liquidator viz., Mr. Anshul Gupta, in addition to it, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Insolvency & Bankruptcy Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. The Company Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

X. The applicant is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor for information and compliance.

9. In terms of the above, I.A. No. 1982/2020 filed in IB-431(ND)/2019 by the Resolution Professional under Section 33(2) of the Insolvency & Bankruptcy Code, 2016, for initiation of the Liquidation Process against the Corporate Debtor viz., M/s. RGTL Industries Limited, is **allowed**.



**(NARENDER KUMAR BHOLA)**  
MEMBER (TECHNICAL)



**(CH. MOHD SHARIEF TARIQ)**  
MEMBER (JUDICIAL)