

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

**CA No. 124/2019
IN
Company Petition No. (IB)-989(ND)/2018**

In the matter of:

Mr. Naveen Malhotra

Applicant/Operational Creditor
(COC Member)

VERSUS

**VTL (India) Limited
And others**

Corporate Debtor

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

Judgment delivered on: 08.08.2019

Coram:

**DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)**

**SHRI HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)**

For Resolution Professional: Mr. Ashish Singh, Adv.

For Applicant: Mr. Naveen Malhotra, Adv.

For Income Tax: Mr. Puneet Rai, Adv.

Memo of Parties**Naveen Malhotra****...Operational Creditor**

(COC Member)

Versus**VTL (India) Limited**

52/124, Pocket 52, EPDP Colony

Chittranjan Park, New Delhi

...Corporate Debtor**Mr. Pradip Kumar**

9 M.P.D. Road, Sujaganj Town

Village Bhagalpur, Anchal Jagdishpur

Bhagalpur

...Director**Mr. Vijay Singh**

C-11 Greater Kailash, New Delhi

... Director**Mr. Ujjwal Sharma**

Vinod Kumar Sharma, Beech Ki

Patti Daurala (Rural) Meerut

... Director**Office of Commissioner of Customs (Exports)**

TKD, New Delhi

...Operational Creditor

(COC Member)

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, VTL(India) Limited.
2. The facts in brief are that the operational creditor, Mr. Naveen Malhotra had filed an application bearing no. IB 989(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 27.09.2018 and Mr. Ashish Singh appointed as Interim Resolution Professional (IRP).
3. Thereafter, in terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) the said Interim Resolution Professional made a public announcement in FORM-A on 29.09.2018 in Financial Express and Jansatta (both in “English” and “Hindi”). The Public announcement was also uploaded in the website of Insolvency and Bankruptcy Board of India (IBBI).

4. The Resolution Professional submits that the corporate debtor has borrowed loans worth Rs. 12,33,45,528/- from Canara Bank and State Bank of India and there are some unsecured miscellaneous liabilities. There are no assets as per the balance sheet for the financial year ended 31.03.2018 and the provisional balance sheet dated 26.09.2018 does not reflect any tangible or intangible assets.
5. That the notice regarding commencement of CIRP was served through courier and also by person, to financial creditor namely State Bank of India and Canara Bank. The individual notices were sent to Canara Bank and State Bank of India which was received and acknowledged respectively, however no claim was submitted by the said Banks to Interim Resolution Professional/ Resolution Professional.
6. The Resolution Professional submits that the first claim was received from Mr. Naveen Malhotra, an operational creditor for Rs 1,25,000/- dated 26.10.2018 and on the basis of that, the Interim Resolution Professional constituted the Committee of Creditors and issued the notice for convening the first meeting of the CoC on 02.11.2018. In its first meeting, one more claim was received from the Office of Commissioner of Custom, Tughlakabad, an operational creditor for an amount of Rs 64,44,512/- on dated 24.10.2018.

7. Thereafter, the Committee of Creditors was reconstituted after admitting the claim of the office of commissioner of custom, with the addition of claim made by office of commissioner of custom, in compliance with Section 21(1) and 21(8) read with Rule 16 of IBBI (Insolvency and Resolution Process for Corporate Persons).
8. Resolution Professional submitted that the next meeting of Committee of Creditors was held on 20.11.2018 wherein the office of Commissioner of Custom voted against the initiation of liquidation. Thereafter, no one appeared in the meeting held on 29.12.2018 and the meeting was adjourned for the next date on 31.12.2018. However, no member of COC was present in the adjourned meeting also.
9. Resolution Professional submitted that in compliance of Regulation 27 of IBC (Insolvency Resolution Process for Corporate Persons) Regulations 2016, two registered valuers namely M/s Budhraj and Associates and M/s S Hari Hariharaputra were appointed for the corporate debtor, who had furnished their valuation reports. The estimated fair value computed by the said both registered valuers vide valuation report dated 12.11.2019 was reflected as NIL.
10. Resolution Professional submitted that a liquidation application CA NO.60/2019(IB)-989/ND/2018 was dismissed vide order dated

22.02.2019 for lack of appropriate approval of the COC. The application lacked authority since none of the members of the COC attended any of the meetings. In spite of communications under such circumstances the resolution professional was constrained to call once again the meeting of COC which was held on 25.03.2019 wherein yet again none of the members appeared.

11. The CIRP of 180 days in the present matter has expired on 26.03.2019 and due to non-receipt of any Resolution Plan within the period of CIRP of 180 days, under section 12(1) of IBC, 2016 the only option left is liquidation mode as provided under the provisions of section 33 of IBC, 2016 of which the relevant sub-section 1 of section 33 is 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.”

12. Ld. RP represents that valuation reports as required to be obtained under the provisions of IBC, 2016 from the two registered valuers in relation to the fair value of the assets of the corporate debtor as well as its liquidation value has been duly obtained. The fair value of assets and liquidation value as on 31.03.2018 is NIL, as per both valuation reports.

13. This Tribunal in the circumstances taking into consideration the provisions of law as well as on facts is constrained to order for liquidation of the corporate debtor and in the circumstances 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. Mr. Ashish Singh Resolution Professional holding registration no. IBBI/IPA-002/IP-N00416/2017-18/11230, is appointed as Liquidator and has given consent to act as the liquidator vide written communication dated 12.06.2019, under section 34 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
- b. Mr. Ashish Singh further 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;
- c. 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;
- d. 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

- e. 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;
- f. 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;
- g. 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.
- 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 operational creditor, corporate debtor and the Liquidator for taking necessary steps.
- j. C.A. 124(ND)/2019 filed in IB 989(ND)/ 2018 is disposed of in the aforesaid terms.

Sd/-

HEMANT KUMAR SARANGI
MEMBER (T)

Sd/-

DR. DEEPTI MUKESH
MEMBER (J)