

PRELIMINARY COPY

THE NATIONAL COMPANY LAW TRIBUNAL

COURT VI, NEW DELHI

I.A. 5556/2021

IN

Company Petition No. (IB) – 1117 (ND) /2020

*Under Section 33(2) of the Insolvency and Bankruptcy Code,
2016 for liquidation of the corporate debtor*

In the matter of:

M/s. Kundan Mal Roop Chand Jewellers Pvt. Ltd.

.... PETITIONER/FINANCIAL CREDITOR

VERSUS

M/s. Delhi Diamonds Pvt Ltd.

..... CORPORATE DEBTOR

In the matter of:

M/s. Delhi Diamonds Pvt Ltd.

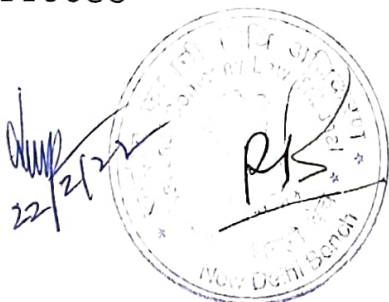
Through its Resolution Professional

Ms. Deepa Gupta

B-2/110, Sector -16, Rohini

New Delhi- 110085

.... Applicant (RP)



Order Pronounced on: 17.02.2022

CORAM:

SHRI.P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)

SHRI. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

For the Applicant: Ms. Deepa Gupta, R.P.

ORDER

PER- RAHUL BHATNAGAR , MEMBER (TECHNICAL)

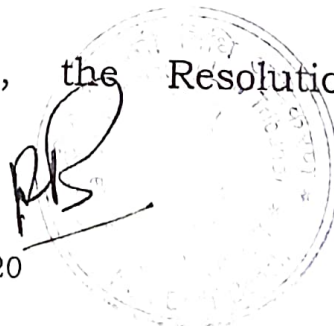
1. This is an application filed by the Resolution Professional, under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of Corporate Debtor, M/s. Delhi Diamonds Pvt Ltd.
2. The facts in brief are that one of the Operational Creditors, M/s. Kundan Mal Roop Chand Jewellers Pvt. Ltd. had filed an application under Section 9 of the Code, bearing number IB- 1117/(ND)/2020, for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 03.05.2021, thereby initiating CIRP against the Corporate

RS



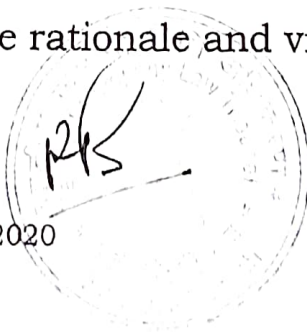
Debtor and therein, appointed Ms. Deepa Gupta as the Interim Resolution Professional (IRP).

3. Thereafter, the RP had issued a public announcement in Form-A, which was published in Business Standard NCR edition on 06.05.2021, calling on the creditors to submit their claims along with proofs. On receipt of claims and their verification / collation, the Committee of Creditors (CoC) was constituted by the Applicant.
4. In the first meeting of the CoC on 02.06.2021, Ms. Deepa Gupta was appointed as the RP of the Corporate Debtor with 100% votes.
5. In the third meeting of the CoC held on 20.07.2021, the Resolution Professional in view of the provisions of the Code and with the approval of the members of Committee of Creditors, called for EOI in Form G dated 24.07.2021.
6. Pursuant to the Form G published by the Resolution Professional dated 24.07.2021, the Resolution Professional received expression of interest from 5 Prospective Resolution Applicants. Accordingly with the consent of the members of Committee of Creditors, the Resolution Professional



requested the Prospective Resolution Applicants to submit the Resolution Plan to the Resolution Professional on or before 22.09.2021. No Resolution Plan was submitted by any of the Prospective Resolution Applicants till the last date for submission of Resolution Plan; however the date was later extended to 27.09.2021 on request of one of the Prospective Resolution Applicants to submit the Resolution Plan.

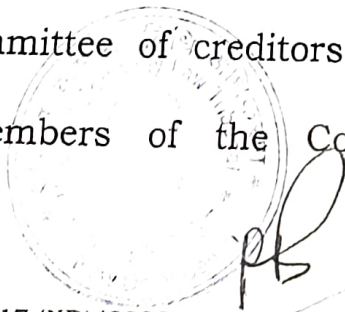
7. In the 5th meeting of the Committee of Creditors held on 01.10.2021, the Resolution Plan submitted by one of the Prospective Resolution Applicant namely Mr. Gaurav Kaladiya was placed before the members of the Committee of Creditors for discussions. In order to thoroughly understand the Resolution Plan submitted by the Resolution Applicant, it was mutually decided to defer the meeting held on 01.10.2021 to 05.10.2021. Moreover, the meeting was again deferred on 05.10.2021 and 08.10.2021, and finally the meeting was held on 11.10.2021 wherein the Resolution Plan submitted by the Resolution Applicant was discussed at length amongst the members of Committee of Creditors as regards to the rationale and viability of the Plan.



Handwritten signature of Gaurav Kaladiya.

8. Pursuant to the discussions between the members of the Committee of Creditors as well as the representative of the prospective Resolution Applicant, and after coming to consensus with respect to certain aspect of the plan submitted by the Resolution Applicant, the members of the Committee of Creditors requested the Resolution Professional to provide an addendum with respect to the amended clauses of the Resolution Plan. Moreover, the members further requested the Resolution Professional to give them atleast 10 days to approve the Resolution Plan from the higher authorities and also requested the Resolution Applicant to open the voting lines only after the consent is received to approve the Resolution Plan.

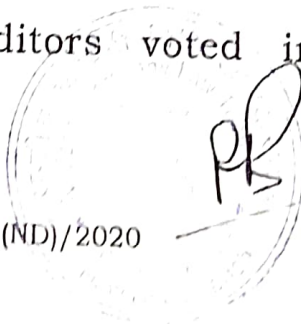
9. As 180 days of CIRP of the Corporate Debtor were expiring on 30.10.2021 and since there were only formalities left to get the Resolution Plan approved by the Committee of Creditors; the Committee of Creditors requested the Resolution Professional to move an application before this Tribunal for extension of CIRP of the Corporate Debtor. Accordingly, the said issue was discussed amongst the members of committee of creditors in their 5th meeting, wherein the members of the Committee of creditors



Handwritten signature of the Resolution Professional.

unanimously voted in favour of extending the period of the CIRP for a period of 30 days. Accordingly, the Resolution Professional moved an application bearing IA No. 1117 of 2021 before this Tribunal for extension of time for a period of 30 days. The said application was listed before this Tribunal on 27.10.2021 and this Tribunal was pleased to allow the prayer of the Resolution Professional and extended the period of CIRP of the Corporate Debtor for a period of 30 days i.e. till 29.11.2021.

10. In the 6th meeting of the Committee of Creditors held on 23.11.2021, the Resolution Professional placed the agenda to approve the Resolution Plan submitted by Mr. Gaurav Kaladia before the members of the Committee of Creditors for voting as decided in the 5th meeting of the Committee of Creditors. In the 5th meeting of the Committee of Creditors, the plan was provisionally approved and it was informed by the members that only final confirmation is required to be given by the higher authorities, after which the plan submitted by Mr. Gaurav Kaladia shall be put to voting for the members of the Committee of Creditors. However, the members of the Committee of Creditors voted in negative, and the



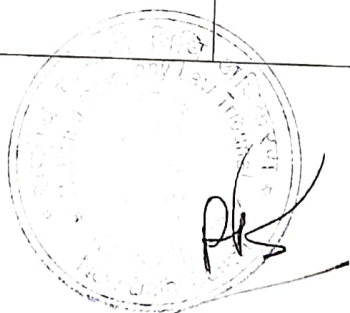
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Resolution Plan submitted by the Resolution Applicant was rejected by the members of the Committee of Creditors by majority of the members present and voted. The relevant extract of the resolution passed by the members is reproduced hereto as under:-

RESOLVED THAT pursuant to applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with rules and regulations, approval of the members of the Committee of Creditors of M/s Delhi Diamonds Private Limited be and is hereby accorded to approve the Resolution plan dated 24.09.2021 submitted and discussed in the fifth COC meeting dated 11.10.2021:

RECORD OF VOTES:

NAME OF FC	PERCENTAGE (%) INVOLVED	IN FAVOUR YES/NO	AGAINST YES/NO
FC-1 (BANK OF INDIA)	79.26%		YES
FC-2 (UNION BANK OF INDIA)	20.74%		YES



11. Since the agenda for the Resolution Plan was rejected by the members of the Committee of Creditors, the Resolution Professional thereafter requested the members of the Committee of Creditors to discuss the agenda which was for the Liquidation of the Corporate Debtor. The said agenda was placed before the members of the Committee of Creditors and the members positively voted in favour of liquidation of the Corporate Debtor. The said agenda placed before the members of the Committee of Creditors was approved by a majority of 100% members present and voted. Extract of the resolution passed by the members of committee of creditors to liquidate the Corporate Debtor is reproduced hereto as under:

"RESOLVED THAT pursuant to applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with rules and regulations, approval of the members of the Committee of Creditors of M/s Delhi Diamonds Private Limited be and is hereby accorded for the approval of the liquidation of the corporate debtor



PK *Geddy*

and move an application under NCLT under section 33 of the IBC for Liquidating the corporate debtor"

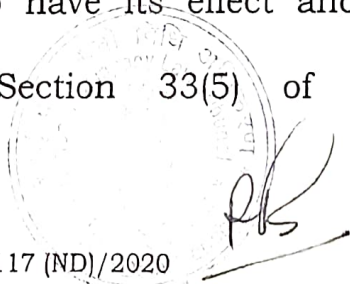
12. The Committee of Creditors in the said meeting also approved the appointment of the Resolution Professional to act as the Liquidator for the Corporate Debtor. Furthermore, the members of the Committee of Creditors in view of the provisions of the code fixed the fees of the Liquidator to be Rs. 25,000/-till the application for liquidation is approved by this Tribunal. The Resolution Professional has given his consent to act as the Liquidator of the Corporate Debtor.

13. The members of the Committee of Creditors further resolved that after the appointment as the Liquidator for the Corporate Debtor, the Liquidator shall first explore the sale of the corporate debtor as a going concern or sale of the business of the corporate debtor as a going concern' in view of Regulation 39C of the Code. It was further decided that if in case during liquidation, a plan of more than 50 lakhs is received, the Liquidator shall be paid as per the liquidation fees as specified in regulation 4(2)

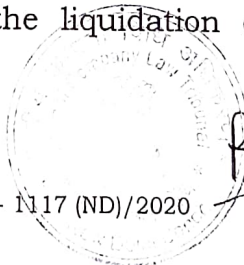
(b) of the Code. However, if a plan of less than 50 lakhs is received, the Liquidator shall be paid a lumpsum amount of Rs. 1.5 lakhs.

14. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. Delhi Diamonds Private Limited with following directions:

- a. That *Ms. Deepa Gupta*, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
- b. That *Ms. Deepa Gupta*, holding Registration No. *IBBI/IPA-002/IP-N00867/2019-20/12801*, is appointed as the Liquidator in terms of Section 32(1) of the Code;
- c. 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. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and



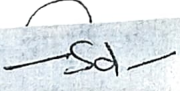
- Bankruptcy Code shall commence;
- e. This order shall be deemed to be notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
 - f. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
 - g. 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.
 - h. 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.
 - i. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per




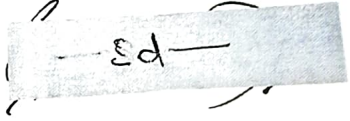
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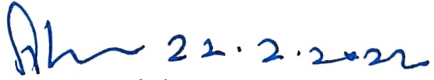
Regulation 13 of the Insolvency and Bankruptcy
(Liquidation Process) Regulations, 2016;

- j. Copy of this order be sent to the financial creditors,
corporate debtor and the Liquidator for taking
necessary steps;
- k. I.A. 5556 (ND)/2021 filed in IB- 1117 (ND)/2020 is
disposed of in terms of the aforesaid terms.


(SHRI. RAHUL BHATNAGAR)
MEMBER (TECHNICAL)




(SHRI. P.S.N. PRASAD)
MEMBER (JUDICIAL)


Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003