IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-VI

ITEM No. 606
IB-176/ND/2020
IA/3629/2022, IA/5924/2021, IA/1221/2025

IN THE MATTER OF:
Mr. Arun Kumar Singh .... Petitioner
Vs
M/s. Genius Exports Pvt. Ltd. .... Respondent

Order under Section 9 of IBC, 2016

Order delivered on 17.09.2025
HYBRID HEARING (PHYSICAL & VC)

CORAM:
JUSTICE JYOTSNA SHARMA **MS. ANU JAGMOHAN SINGH**
HON'BLE MEMBER (JUDICIAL) **HON'BLE MEMBER (TECHNICAL)**

PRESENT:
For the Petitioner :
For the Respondents :

ORDER

IA/3629/2022

1. This is an application filed under Section 30(6) r/w 31 of the Insolvency & Bankruptcy Code, 2016 read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Process for Corporate Persons) Regulations, 2016, filed by the Resolution Professional for approval of Resolution Plan submitted in IB-176/ND/2020.
2. Learned Counsel for the Resolution Professional submits that the subsequent to the approval of the resolution plan by the CoC, the successful resolution Applicant i.e. Shri Digvijay Nath Tripathi passed away. The Applicant has filed a death certificate along with an affidavit in support of the fact of his death.

3. Heard the Resolution Professional.

4. Some of the relevant facts are as below:

The Section 9 Petition in this case was admitted on 01.07.2021, and the IRP was appointed. The present Applicant was confirmed and therefore continued as the Resolution Professional (RP). After observation of other formalities and statutory requirements of CIR proceeding, the resolution plan was submitted by Shri Digvijay Nath Tripathi, the SRA and the same was approved on 22.05.2022 in 22nd meeting of the CoC. However, the SRA died after the approval of the plan by the CoC.

5. None has challenged the fact of passing away of the Successful Resolution Applicant, Shri Digvijay Nath Tripathi. This fact is also undisputable that the SRA passed away after approval of Resolution Plan by the CoC but before the final approval by this Adjudicating Authority. Admittedly, as submitted by the Applicant, the Corporate Debtor is not a going concern and it had closed business at the time of the commencement of the CIRP.

6. In view of the death of the SRA, the question of implementablity of the plan has raised its head.

7. The proviso to Section 31(1) of IBC, 2016, which essentially provides for satisfaction of the Adjudicating Authority for the purpose of the approval of the plan is as below:

Section 31(1)— "*if the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve*

the resolution plan which shall be binding on corporate debtor and its employees, members, creditors, {including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,} guarantors and other stakeholders involved in the resolution plan:

{Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.}"

We note that the proviso to section 31(1) speaks of the satisfaction of the Adjudicating Authority as regards its effective implementation. A Resolution Plan does not deserve approval if there are no provisions for its effective implementation.

It may usefully be noted at this juncture that section 30(2) enjoins the Resolution Professional to examine the resolution plan on different parameters including the implementation and supervision of the resolution plan.

Further we note that, Section 31(2) gives power to the Adjudicating Authority to reject the Resolution Plan, if it does not conform to the requirements referred to in sub-section (1) of 31.

The provisions **Section 31(2)** of IBC are as below:

Section 31(2) — "Where the Adjudicating Authority is satisfied that the resolution plan does not confirm to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan."

In our view, the Section 31(1) and 31(2) read together provide for rejection of resolution plan for non-compliance and also for rejection on account of non implementability.

From the above provisions it is clearly indicated that not only the conformity with the provisions of section 30 of IBC, 2016 is a prerequisite for approval of resolution plan but the implementability and supervision of the resolution plan is also important factors to be considered before the plan can finally be approved or rejected.

The provisions of 33(1) of IBC provide for the course of action where no plan is received or plan is rejected by the Adjudicating Authority.

The provisions of Section 33(1) IBC are as below:

Initiation of Liquidation

"Section 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 instant case, the SRA has died therefore, the question is whether such a plan can be treated as implementable? In our firm view, the

responsibilities/liabilities/duties and rights broadly termed as office of SRA is neither transferable nor inheritable. In our opinion, in these peculiar circumstances i.e. death of SRA who was reposed with certain defined responsibilities/liabilities/duties as per the terms of the Resolution Plan and also certain degree of trust, being not replaceable by any other entity, the plan cannot be treated as implementable. Hence, as per the provisions of proviso to Section 31(1), Section 31(2) r/w Section 33, IBC, 2016 the resolution plan is hereby rejected for non-implementablity and consequently, the Corporate Debtor is hereby ordered to be liquidated in the manner as laid down in chapter III.

9. It is noted that the Applicant herein has not proposed any name for the Liquidator. Therefore, this Adjudicating Authority appoints Sri Yudhishter Sharma as the Liquidator of the Corporate Debtor from the available list of panel of resolution professionals as maintained by IBBI and communicated to NCLT vide its letter No IP-12011/1/2020-IBBI/171/958 dated 30.06.2025. The registration number of the Liquidator is IBBI/IPA-003/IP-N00217/2019-2020/12548 and email id yudhishteroct@gmail.com.

   i. Sri Yudhishter Sharma shall file a valid AFA, consent form, and disclosure about non-initiation of any disciplinary proceedings against him, within five (5) days of pronouncement of this order.
   ii. The Liquidator appointed in this case shall initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation

process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

iii. 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.

iv. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth vest with the Liquidator appointed under Section 34(1) of the Code, 2016.

v. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

vi. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

vii. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

viii. 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.

ix. The Liquidator shall submit 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.

10. The Registry is directed to send a copy of this order to the Insolvency and Bankruptcy Board of India (IBBI), the Registrar of Companies (RoC), and all stakeholders of the Corporate Debtor forthwith. Accordingly, this application is **disposed of.**

IA/1221/2025

This is an application filed under Section 12A seeking withdrawal of CIRP in company petition titled IB176/ND/2020. We note that an order for liquidation of the company has been passed in IA/3629/2022. Therefore, this IA is **dismissed as having become infructuous.**

IA/5924/2021

List this application on **12.11.2025.**

Sd/-
(ANU JAGMOHAN SINGH)
MEMBER (TECHNICAL)

Sd/-
(JYOTSNA SHARMA)
MEMBER (JUDICIAL)

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