IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
SPECIAL BENCH (COURT – II)

Item No. 209
IB-243/ND/2024
IA-12/ND/2025

IN THE MATTER OF:

(Under Section: 7 of IBC, 2016)

M/s Cosmic Infrasolutions Pvt. Ltd. ... Financial Creditor

Versus

M/s Wel Intertrade Hotels Private Limited ... Corporate Debtor

AND IN THE MATTER OF IA-12/ND/2025:

CA Mahesh Agarwal
(RP of M/S Well Intertrade Private Limited)
D-13, Suvidha Apartment,
Sector-13, Rohini, Delhi-110085 **... Applicant**

Under Section: 33 of IBC, 2016

Order delivered on 29.09.2025

CORAM:
SHRI ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)
SHRI RAVINDRA CHATURVEDI, HON'BLE MEMBER (T)

PRESENT:

For the RP : Adv. Raghav Marwaha along with Mr. Mahesh Aggarwal, RP in person

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

IA-12/ND/2025: In the 4th CoC meeting held on 13.03.2025, it passed the resolution that the Corporate Debtor can be liquidated. The relevant excerpt of the Resolution reads thus:-

ITEM NO: 8

TO DISCUSS & APPROVE THE LIQUIDATION OF THE CORPORATE DEBTOR

The Chairman apprised the CoC members that in the 3rd and 4th CoC meeting the matter regarding publication of Form G was discussed in detail with the CoC members, however, CoC members was of the opinion that there is no need to publish Form G, as there are no fixed assets of the Corporate Debtor, and there is no possibility of any resolution in this matter it is suggested to go for direct liquidation of the Corporate Debtor to minimize the CIRP expenses.

The Chairman apprised the CoC members Section 33 of the Insolvency and Bankruptcy Code, 2016 which states:

(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.

(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).

(3) Where the resolution plan approved by the Adjudicating Authority is contravened by the concerned corporate debtor, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(4) On receipt of an application under sub-section (3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).
(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:

Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority

(6) The provisions of sub-section (5) shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(7) The order for liquidation under this section 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.

The CoC members, in their commercial wisdom, have already suggested filing the liquidation application without publishing Form G in this matter. However, the Chairman apprised the CoC members that there must be a strong and valid reason for directly proceeding with liquidation without publishing Form G. The Chairman discussed the current situation of the Corporate Debtor with the CoC members, highlighting that the ex-management is not cooperating to provide all the requisite information/documents of the Corporate Debtor's financial position.

After detailed discussions, the CoC remains of the opinion that liquidation is the most appropriate course of action and CoC decided to proceed with filing the liquidation application.

"RESOLVED THAT the members of the Committee of Creditors (CoC) of M/s Wel Intertrade Private Limited hereby approve the filing of the Liquidation Application under Section 33 of the Insolvency and Bankruptcy Code, 2016, for initiating the Liquidation Process of M/s Wel Intertrade Private Limited."

2. As has been provided under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, the Resolution Professional at any time during the Corporate Insolvency Resolution Process but before confirmation of the Resolution Plan, intimates the Adjudicating Authority of the decision of the Committee of Creditors (approved by not less than 66% of the voting share) to liquidate the Corporate Debtor. In such a situation, the Adjudicating Authority needs to pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1). Section 33(2) of the Code reads thus:-

*"**33. Initiation of liquidation.**—*

…..

(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 [approved by not less than sixty-six per cent. of the voting share] 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).

[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate[J2] the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum."

3. In the wake of the resolution passed by CoC in its 4th meeting held on 13.03.2025 with 100% vote share, we order the liquidation qua the Corporate Debtor. Accordingly, **Mr. Kailash Shah** having Reg. No: IBBI/IPA-001/IP-P00267/2017-2018/10511 is appointed as the Liquidator qua the Corporate Debtor to carry out the liquidation process in terms of the following directions inter alia:-

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 (viz. Sections 35, 36, 38, 39 and 41 thereof) and other relevant rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date, enjoined upon him.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file a suitable application before this Adjudicating Authority.

d) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern 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 a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.

f) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section 35(1) of IBC, 2016, read with relevant rules and regulations, and also file its response for the disposal of any pending Company applications during the process of liquidation.

g) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further, such other or further reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

h) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

i) The Registry is directed to communicate this order to the Registrar of Companies, having jurisdiction over the Corporate Debtor and the Insolvency and Bankruptcy Board of India;

4. It goes without saying that fee of the Liquidator would be payable in terms of the provisions of Section 34 (7) of the IBC, 2016, read with Regulation 4 of IBBI (Liquidation Process) Regulation 2016.

-Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (T)

-Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

Poonam/Ruchita