IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV

13. **IA-2036/2020 in C.P.(IB)/2940(MB)/2019**

CORAM:

SHRI RAJESH SHARMA
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **22.04.2022**

NAME OF THE PARTIES: Bhavesh Mansukhbhai Rathod
v/s.
Nilltech Software Private Limited

SECTION: 9, 33(1)(b)(i) to (iii) r/w Sec 33(3) OF INSOLVENCY AND BANKRUPTCY CODE, 2016.

<u>O R D E R</u>

<u>The Court is convened through Video Conference.</u>

1. Mr. Nithish Bangera, PCS, Ld. Authorised Representative of the Applicant/Resolution Professional present.

2. This is an Interlocutory Application filed by Mr. Bhavesh Rathod, Resolution Professional, seeking liquidation of **Nilltech Software Private Limited** under Section 33(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code").

3. **<u>The brief facts of the Application are as follows:</u>**

   A. This Tribunal vide an order dated 25.10.2019 in Company Petition No. 2940/2019 admitted the petition under Section 9 of the Code, filed by Hardik Pankaj Jotangia (hereinafter referred to as the

"Operational Creditor") and Corporate Insolvency Resolution Process (CIRP) was initiated against Nilltech Software Private Limited, (hereinafter called as the "Corporate Debtor"). Vide the said order, this Tribunal was appointed the Applicant herein as the Interim Resolution Professional (IRP) of the Corporate Debtor.

B. The Applicant submits that, the IRP had made public announcements through Form-A dated 14.12.2019 in two local newspapers namely Financial Express (English Newspaper) and Lakshdeep (Regional language) inviting the claims from the Creditors of the Corporate Debtor as per the Regulation 6(3) of the Insolvency and Bankruptcy Board of India (Insolvency Regulation Process for Corporate Persons) Regulations, 2016.

C. The Applicant further submits that, in the first meeting of the Committee of Creditors (CoC) held on 10.01.2020, the IRP was appointed as RP of the Corporate Debtor.

D. The RP further submits that, he prepared Information Memorandum on the basis of the documents available with him. Also, the Resolution Professional published an Expression of Interest (EoI) in Form-G on 24.02.2020 in newspaper inviting Resolution Plans from the prospective Resolution Applicants. However, no prospective Resolution Applications are received by the RP as on last date i.e. 10.03.2020.

E. The Applicant submits that in view of the Pandemic, the liquidation application is made within 180 days excluding lockdown period -

Date of admission order	October 25, 2019
Date of receipt of order	December 11, 2019
Date of completion of 180 days	June 8, 2020
Number of days excluded due to pandemic (March 25, 2020 to September 15, 2020) As per Hon'ble NCLAT order	175 days
Revised date of completion excluding lockdown period	November 30, 2020
Application made for liquidation	November 5, 2020

F. As no Prospective Resolution Applicants came forward to bid for the company, the CoC in its meeting held on November 5, 2020 unanimously approved to liquidate the company. Copy of relevant resolution passed by the CoC in its meeting held on November 5, 2020 is reproduced below:

> *"RESOLVED THAT the Committee of Creditors unanimously approves liquidation of Nilltech Software Private Limited and Mr. Bhavesh Rathod (Resolution Professional) be authorised to make an application before Hon'ble NCLT Mumbai bench for liquidation of the Corporate Debtor."*
>
> *"RESOLVD FURTHER THAT the Committee of Creditors do appoint Mr. Bhavesh Rathod as liquidator for Nilltech Software Private Limited and he is further authorised to appoint professional to represent the Company before the Hon'ble National Company Law Tribunal, Mumbai Bench or any other Court as and when required from time to time in the aforesaid matter."*

G. The resolution was unanimously passed in the meeting of the CoC members which is more than the requisite percentage that is 66% of the voting as prescribed u/s 33(2) of IBC.

H. Considering the facts and circumstances as submitted by the Authorised Representative appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -

a. IA No. 2036/2022 filed by the Applicant for the liquidation of Nilltech Software Private Limited is allowed.

b. Mr. Bhavesh Rathod, Resolution Professional having Registration No.: IBBI/IPA-001/IP-P01200/2018-2019/11910 is hereby appointed as the Liquidator to conduct liquidation process of Nilltech Software Private Limited as provided under Section 34(1) of the Code.

c. The Liquidator would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.

d. The Liquidator appointed in this case to 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.

e. The Liquidator appointed under section 34(1) of the Code, will have all 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 Liquidator.

f. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.

g. 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.

h. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings 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.

i. This liquidation order u/s 33(7) 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. With the above directions, the IA-2036/2020 in CP(IB)-2940(MB)/2019 filed u/s 33(1) by the Applicant is hereby **allowed** and disposed of.

Sd/-	Sd/-
KISHORE VEMULAPALLI	**RAJESH SHARMA**
Member (Judicial)	**Member (Technical)**

pvs/22.04.2022