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

Item No. 209
IB-656/ND/2020
IA-5769/2023, IA-4906/2022, IA-390/2023

IN THE MATTER OF:

Faihzan Khan ... **Applicant/Petitioner**

Versus

M/s. LI Digital Payments Private Limited ... **Respondent**

Under Section: 9 of IBC, 2016

Order delivered on 13.03.2025

CORAM:

SH. ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (J)

MS. REENA SINHA PURI
HON'BLE MEMBER (T)

PRESENT:

For the Applicant	**:**	
For the Respondent	**:**	Ms. Charu Sangwan, adv. with Mr. Shubham Dayma, adv., Mr. Harshita Tyagi for R-3 & 6
For the RP	**:**	Adv. Chetanya Kapoor

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

IA-5769/2023: Ld. Counsel for the RP is not prepared with the submissions to be put forth in the matter. At his request, the hearing is deferred to **15.05.2025.**

IA-4906/2022: As prayed by the Ld. Counsel for the respondent No. 3 & 6, two weeks' time is granted for filing reply on behalf of the respondent No. 6. There is no appearance on the behalf of other respondents. In the wake, the proceedings qua them are set ex parte.

List on **15.05.2025.**

IA-390/2023: The prayer made in the captioned application reads thus:-

> *"(a) To pass an Order under Section 33(1) and 33(2) of the Insolvency and Bankruptcy Code, 2016 allowing the liquidation of the Corporate Debtor, namely M/s. LI Digital Payments Pvt. Ltd.;*

(b) To pass an Order appointing any Insolvency Professional except the Applicant/ RP, Mr. Aditya Kumar, as the Liquidator as per the provisions of the Code;

(c) Pass such other and further Order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstance of the present case and in the interest of justice."

Ld. Counsel for the RP could draw our attention to resolution dated 16.09.2022 passed by CoC with 100% vote shares. The resolution reads thus:-

Name of Creditor	Voting Proportion as per Constitution of Committee	% of Members Voting
SV Creditline Limited	7.43%	7.43%
Srei Infrastructure Finance Limited	92.57%	92.57%
Total	**100.00%**	**100.00%**

Accordingly, as per the above list of the Members present and Voting, the Voting share on the resolutions have been arrived at.

1. **TO APPROVE THE PROPOSAL FOR TAKING NEW PREMISE ON RENT FOR MAXIMUM OF AMOUNT OF RS. 25,000/- P.M. ALONG WITH SECURITY DEPOSIT OF RS. MAXIMUM 1,00,000/- (IF ANY) FOR MOVEMENT OF THE ASSETS LYING AT THE REGISTERED OFFICE.**

The RP had put up for consideration of the Members of CoC for approval and Authorised Representative of Financial Creditor has approved the same by voting in favour of the resolution if required to move the assets lying at the Registered Office of the company are required to be moved due to any reason.

Result: - Authorised Representative of Financial Creditors had participated in the voting and approved the resolution.

2. **TO APPROVE THE PROPOSAL FOR CHANGING THE REGISTERED OFFICE AT NEW PREMISES WILL BE TAKEN ON RENT MENTIONED AT SERIAL NUMBER 1 ABOVE**

The RP had put up for consideration of the Members of CoC for approval but Authorised Representative of Financial Creditor has not approved the same by voting against the resolution.

Result: - Authorised Representative of Financial Creditors had participated in the voting and voted against the resolution. Hence resolution could not be passed.

3. **TO APPROVE THE APPLICATION FOR SEEKING EXTENSION OF TIME OF CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP) BEFORE NCLT.**

RP informed the members of the CoC that the one eighty days' time period prescribed under Section 12 of IBC for completing the insolvency process expired on 15.10.2022. Accordingly, at the request of the members of the Committee, the RP sought vote of the members of the CoC on whether to apply for extension of time under Section 12(2) and (3) or whether to apply for initiation of liquidation under Section 33.

On the request of the member of the Committee, the RP had put up for approval of resolution:

The members of the Committee considered the status of the corporate debtor as discussed under Item 4 and 5 of the Agenda and other miscellaneous factors affecting the insolvency resolution of the Corporate Debtor and came to the conclusion that revival of the Corporate Debtor as a going concern may not be commercially feasible. Further, the funds and the assets of the Company are also not sufficient to adequately meet the costs and expenses of the insolvency administration.

Keeping in view the totality of the facts and circumstances, the authorized representative of the Financial Creditors participated in the voting and voted against the resolution for extension of CIRP Process of the Corporate Debtor.

Result: - Authorised Representative of Financial Creditors had participated in the voting and voted against the resolution. Hence resolution could not be passed.

4. **TO APPROVE THE APPLICATION FOR LIQUIDATION OF THE CORPORATE DEBTOR BEFORE NCLT**

RP informed the members of the CoC that the as item mentioned at serial number 3 i.e. for extension of completing the insolvency process could not be passed as members wanted to go for liquidation of the corporate debtor under Section 33.

On the request of the member of the Committee, the RP had put up for approval of resolution:

The members of the Committee considered the status of the corporate debtor as discussed under Item 5 of the Agenda and other miscellaneous factors affecting the insolvency resolution of the Corporate Debtor and came to the conclusion that revival of the Corporate Debtor as a going concern may not be commercially feasible. Further, the funds and the assets of the Company are also not sufficient to adequately meet the costs and expenses of the insolvency administration.

Keeping in view the totality of the facts and circumstances, the authorized representative of the Financial Creditors participated in the voting and voted in favour of initiating liquidation of the Corporate Debtor.

Hence the following resolution was passed unanimously.

RESOLVED THAT the consent of the members be and is hereby accorded to initiate the filing of application for liquidation of the Corporate Debtor.

Result: - Authorised Representative of Financial Creditors had participated in the voting and approved the resolution.

5. **TO RATIFY ALL THE APPLICATION FILED WITH NCLT.**

On the request of the member of the Committee, the RP had put up for approval of resolution:

RESOLVED THAT the consent of the members be and is hereby accorded to ratify the filing of all the applications before NCLT mentioned in ITEM No. 4 of Part A.

Result: - Authorised Representative of Financial Creditors had participated in the voting and voted for the resolution. Hence the resolution was passed unanimously.

ANY OTHER ITEM NOT INCLUDED IN THE AGENDA CIRCULATED TO THE MEMBERS OF CoC

1. **APPOINTMENT OF LIQUIDATOR TO OTHER PROFESSIONAL BY THE OPERATIONAL CREDITOR**

Upon passing of resolution for liquidation of corporate debtor unanimously, member of the Committee and the RP mutually agreed to consider appointment of another insolvency professional as liquidator of the Company as per the terms of Section 34 of the Insolvency and Bankruptcy Code, 2016.

There was no other item for the discussion.

VOTE OF THANKS

There being no other matter for discussion, the meeting ended with a vote of thanks to the chair.

As can be seen from the aforementioned resolution, the CoC has decided to liquidate the corporate debtor. As can be seen from the provisions of Section 33(2) of IBC, 2016 where the resolution professional at any time during the Corporate Insolvency Resolution Process, but before confirmation of Resolution Plan, intimates the Adjudicating Authority regarding the decision of the committee of creditors approved by not less than 66% of vote shares to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation process. Section 33(1) and (2) of the IBC, 2016 reads thus:-

33. Initiation of liquidation. -

(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 [1][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).

[2][*Explanation*. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate 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.]

As can be seen from the aforementioned, once the CoC has passed resolution to liquidate the corporate debtor, this Tribunal is required to pass an order requiring the corporate debtor to be liquidated in the manner as laid down in Chapter-III of the Code. Further the course of action as mentioned in Section 33(b)(1)(2)(3) is required to be followed. In the wake of the resolution passed by the CoC, we are left with no option but to direct liquidation of corporate debtor. Ordered accordingly.

Accordingly, **Shiv Nandan Sharma** with **Reg. No: [IBBI/IPA-001/IP-P00384/2017-2018/10641] (e-mail ID: sharmasn@gmail.com)** so appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions inter alia:

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 (viz. Sections 35, 36, 37, 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) 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;

e) 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.

f) 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.

h) 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 disposal of any pending Company applications during the process of liquidation.

i) 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.

j) 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.

It goes without saying that the 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/-	**Sd/-**
(REENA SINHA PURI)	**(ASHOK KUMAR BHARDWAJ)**
MEMBER (T)	**MEMBER (J)**

Ashima/Hetash