

PRESENT:

For the Applicant : **Mr. Mohit Nandwani, Advocate**
For the Respondent : **None**

JUDGEMENT

PER SHRI L. N. GUPTA, MEMBER (T)

An application has been filed by Sh. Mukul Kumar, the Resolution Professional of M/s Orchid Salon Services Pvt. Ltd. under Sections 33(2) and 34 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for seeking following main reliefs :

- "(1.) Allow the present Application and pass necessary orders to initiate liquidation of the Corporate Debtor as per the Code.*
- (2.) Appoint another Insolvency Professional as Liquidator to conduct Liquidation of Corporate Debtor as per Section 34 of the Code."*

2. Facts of the case in nutshell, are that the Operational Creditor namely, Pradyuman Kumar Aggarwal has filed an application bearing No. IB-997/(ND)/2019 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, Orchid Salon Services Private Limited. The said Application was admitted by this Tribunal vide Order dated 12.07.2019 and Mr. Lalit Gandhi was appointed as Interim Resolution Professional (IRP).

3. In terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a Public Announcement in Form-A on 01.08.2019. The Public Announcement was also uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

4. The Interim Resolution Professional constituted a Committee of Creditors (CoC). The first meeting of the CoC was held on 29.08.2019, wherein the Resolution Professional was confirmed as Resolution Professional.

5. It is further submitted by the Applicant that as per recommendation and on an application filed by the COC, this Tribunal vide its Order dated 21.10.2019 had replaced the IRP and appointed Sh. Mukul Kumar as the RP of the Corporate Debtor Company namely, Orchid Salon Services Pvt. Ltd.

6. It is submitted by the Applicant that the Form-G i.e., Expression of Interest (EoI) was published on 01.11.2019, in response to which no Expression of Interest was received.

7. It is stated by the Applicant that he had apprised the COC that the revenues of the Corporate Debtor are diminishing at an alarming rate and the clients of the Corporate Debtor have moved away and all employees have also resigned including the Accounts team. Therefore, he



placed the following resolution in the 5th Meeting of the COC held on 27.11.2019 :

“RESOLVED THAT pursuant to Section 33, sub section (2) of Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, Committee of Creditors hereby approve that M/s. Orchid Salon Services Private Limited, corporate debtor under Corporate Insolvency Resolution Process to be liquidated.”

That it is submitted by the RP that the aforesaid Resolution was assented by the CoC with 96.52 % voting share.

8. That the RP has not provided his written consent to be appointed as Liquidator and has sought indulgence of this Tribunal to appoint another Insolvency Professional to act as Liquidator of the Corporate Debtor.

9. In view of the above, this Bench based on the list furnished by IBBI, appoints Sh. Rakesh Kumar Jain as a Liquidator having Registration No. IBBI/IPA-002/IP-N00053/2017-18/10105 (Email Id: sirshree.rakesh@gmail.com) at the fee prescribed per table specified under regulation 4(2)(b) of Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019 subject to the condition that no disciplinary proceedings are pending against him and disclosures as required under IBBI Regulations, 2016 are made within a period of one week from this Order. Sh. Rakesh Kumar Jain, Liquidator is directed to file his consent within a week.

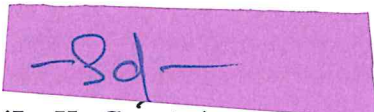


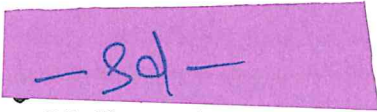
10. In sequel to the above, the Application is allowed, Ordering Liquidation of the Corporate Debtor, M/s Orchid Salon Services Pvt. Ltd. in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant Rules and Regulations along with the following directions :

- a. Sh. Rakesh Kumar Jain, IBBI Registration No. IBBI/IPA-002/IP-N00053/2017-18/10105, is appointed as Liquidator in terms of Section 34 (1) of IBC 2016.
- b. The Liquidator, is directed to issue Public Announcement stating that the corporate debtor is in Liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. 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;
- d. This Order shall be deemed to be a 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;
- e. Liquidator shall investigate Preferential and Fraudulent Transactions and siphoning off business/funds of the company to any other entity, if any.



- f. The Liquidator shall submit a 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.
- g. The Registry is directed to communicate a copy of the Order to the Operational Creditor, the Corporate Debtor and Liquidator at the earliest but not later than seven days from today.
- h. A copy of this Order be also sent by Registry of this Tribunal to the ROC for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT.
- i. The 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;
11. C.A.-209/ND/2020 filed in IB-997/(ND)/2019 is disposed-off in the aforesaid terms.


(L. N. Gupta)
Member (T)


(Ina Malhotra)
Member (J)