

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

**MA 496/2019 in CP(IB)259(MB)/2018**

(Under Section 33 of the IBC, 2016)

Mr. Rakesh Rathi

... Applicant/RP

In the matter of

Nisarg Healthcare Pvt Ltd

... Operational Creditor

Vs

Academy For Counselling & Education Pvt Ltd

... Corporate Debtor

Order delivered on 13.8.2019

**Coram:**

Hon'ble Member (Judicial) Mr. V.P. Singh

Hon'ble Member (Technical) Mr. Rajesh Sharma

For the Applicant: Adv. Vidya Kata for RP

*Per: Member(J) V P Singh*

ORDER

MA 496/2019 has been filed under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, seeking liquidation of the Corporate Debtor. Applicant Resolutions Professional, Mr. Rakesh Rathi has filed this application stating that Petition filed under section 9 was admitted by order of this Bench dated on 31.10.2018. Subsequently, CoC, in its first meeting, appointed the applicant as a Resolution Professional of the Corporate Debtor.

2. The 2<sup>nd</sup> meeting of CoC was held on 23.1.2019, wherein the CoC disapproved publishing of Expression of Interest under Regulation 30A of IBC (CIRP) Regulations, 2016, as there are no substantial assets in the company



and accordingly, resolved to let the company go into liquidation. Copy of the minutes of CoC meeting is annexed with the application as Annexure E.

3. The applicant has also annexed a copy of the attendance sheet, which shows that the CoC with 100% vote shares has approved resolution for Liquidation of the Corporate Debtor. It was also resolved in the said meeting to appoint Mr. Rakesh Rathi, Resolution professional to act as a Liquidator of the Corporate Debtor.

4. In the circumstance, we as a result of this allow the application filed under section\*33 of IBC, 2016

**ORDER**

5. MA 496/2019 is allowed, and we at this moment pass the order of liquidation Section 33 of IBC as follows:

- a. That the Corporate Debtor is liquidated in the manner as laid down in the Chapter by issuing a Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to RoC under which this Company has been registered.
- b. As to the appointment of Liquidator, Mr Rakesh Rathi is at this moment appointed to act as a Liquidator for the liquidation of Corporate Debtor company with all powers as envisaged in the Code.
- c. On such appointment under Section 34 of the Code, all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor shall cease to affect and shall be vested in the Liquidator.
- d. That the personnel of the Corporate Debtor shall extend all co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- e. That the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate/assets as specified under Regulation 4 of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
- f. Since this liquidation order has been passed, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, in the event of initiation of a suit or legal



proceeding by the liquidator on the corporate debtor behalf, it may initiate such proceedings with prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.


- g. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workers of the Corporate Debtor except to the extent of the business of the Corporate Debtor continuing during the liquidation process by the Liquidator.
6. Moratorium declared vide Order dated 31.10.2018 in CP No.: 259/2018 ceased to exist.
7. The registry is directed to communicate this order to the Liquidator immediately even by way of e-mail.
8. MA 496/2019 is disposed of accordingly.

Sd/-  
RAJESH SHARMA  
Member (Technical)

Sd/-  
V. P. SINGH  
Member (Judicial)



**Certified True Copy**  
**Copy Issued "free of cost"**  
On 26/12/2019

  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench