



**THE NATIONAL COMPANY LAW TRIBUNAL
COURT V, NEW DELHI**

I.A (Liq.)-2/2024

IN

Company Petition No. (IB) – 143/(ND)/2020

*Under Section 33 of the Insolvency and Bankruptcy
Code, 2016 for initiating liquidation process of Corporate
Debtor and to pass other necessary directions.*

IN THE MATTER OF:

MR. UDAIVIR SINGH

.... OPERATIONAL CREDITOR

VERSUS

M/S KEEP IN TOUCH CLOTHING PRIVATE LIMITED

.....CORPORATE DEBTOR

AND IN THE MATTER OF-

BRIJESH SINGH BHADAURIYA
RESOLUTION PROFESSIONAL FOR
M/S KEEP IN TOUCH CLOTHING PRIVATE LIMITED

HAVING OFFICE AT:
C-II/08, MANGAL APARTMENTS,
VASUNDHARA ENCLAVE, DELHI-110096

.... APPLICANT

Order Pronounced on: 28.04.2026

CORAM:

**SHRI MAHENDRA KHANDELWAL
HON'BLE MEMBER (JUDICIAL)**

**MS. ANU JAGMOHAN SINGH
HON'BLE MEMBER (TECHNICAL)**

APPEARANCES:

For the RP : Adv. Abhishek Anand, Adv. Karan Kohli



ORDER

1. This is an application filed by the Resolution Professional, Mr. Brijesh Singh Bhadauriya ("**Applicant**") under Section 33(2) read with Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 ("**Code**"), seeking issuance of directions for the liquidation of the Corporate Debtor, M/S Keep In Touch Clothing Private Limited.
2. The Applicant in the present application has prayed for the following reliefs:
 - a) Allow the present Application;
 - b) Pass an order under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 to liquidate the Corporate Debtor;
 - c) Consequentially, pass an order for appointment of Mr. Brijesh Singh Bhadauriya as the Liquidator of the Corporate Debtor for conducting the Liquidation of the Corporate Debtor as resolved by the CoC in the 2nd CoC meeting convened on 07.12.2023;
 - d) Pass such other or further order/order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.
3. The facts in brief stated in the Application are, as under:
 - a) This Adjudicating Authority vide its order dated 28.07.2023 had initiated the Corporate Insolvency Resolution Process against M/S Keep In Touch Clothing Private Limited ("**Corporate Debtor**") in Company Petition No. (IB) 143/ND/2020 and appointed Mr. Brijesh Singh Bhadauriya as the Interim Resolution Professional ("**Applicant**").
 - b) The Applicant made a Public Announcement on 10.08.2023 in Form A in the newspapers i.e., Financial Express (English Newspaper- Delhi and NCR) and Jansatta (Hindi Newspaper- Delhi and NCR).



The last date of submission of the claim was 23.08.2023. The copy of Public Announcement is placed on record as Annexure A-2.

- c) After receiving and collating the claims submitted by the creditors, the Applicant constituted the Committee of Creditors (“**CoC**”) comprising of two Financial Creditors. In the 2nd CoC meeting convened on 07.12.2023, the CoC was apprised by the Applicant that the Corporate Debtor neither has significant assets nor updated financial statements. The CoC was further apprised that the Applicant had obtained a confirmation letter (**Ref: ARB/Mis/KIT/165/2023**) dated 02.05.2023. This correspondence, issued by the Asset Recovery Branch of Union Bank of India in Connaught Place, Delhi, confirmed the sale of four collateral properties provided by the Corporate Debtor. Additionally, the letter noted that the amount received has been appropriated in the bank accounts.
- d) In pursuance of the above-mentioned, the CoC in its 2nd CoC meeting was of a view that as there are no assets of the Corporate Debtor on the date of commencement of CIRP of the Corporate Debtor, therefore, no purpose would be served by continuing the CIRP of the Corporate Debtor. Thus, a resolution to liquidate the Corporate Debtor was put to vote through postal ballot in the 2nd CoC meeting itself. The members of CoC approved the resolution for Liquidation of the Corporate Debtor with 100% voting share. The copy of the minutes of 2nd CoC meeting is placed on record as Annexure A-4.
- e) Also, the CIRP period expired on 24.01.2024, and the members of the CoC have not resolved to extend the CIRP period of the Corporate Debtor. Accordingly, the instant Application under Section 32 read with Section 33(1) of the Code has been filed by the Applicant to seek



directions for liquidation of the Corporate Debtor. Further, the Applicant has given consent in Form AA to act as a Liquidator in terms of Section 34(1) of the Code. The consent form has been placed on record as Annexure A-5.

4. We have heard the learned counsel for the Applicant and have perused the documents on record.

5. We note that before analyzing the facts of the instant case, it is important to understand the law on liquidation of the Corporate Debtor which is laid under Section 33 of the Code. The relevant extract of the provision for liquidation under Section 33 of the Code is reproduced hereinunder:

“Section 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 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).

[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.”



6. It is noted that the CIRP of the Corporate Debtor commenced on 28.07.2023. The period of 180 days from the date of commencement ended on 24.01.2024. However, no resolution to extend the period beyond 180 days has been passed by the members of the CoC as per Section 12 of the Code. Thus, the CIRP of the Corporate Debtor expired on 24.01.2024.

7. Further, it is noted that the Applicant has apprised the CoC in the 2nd CoC meeting convened on 07.12.2023 that the Corporate Debtor neither has any asset nor have updated financial statements. Also, the confirmation letter issued by Asset Recovery branch of the Union Bank of India, having reference number ARB/Mis/KIT/165/2023 confirms that the four collateral properties given by the Corporate Debtor has been sold by the Bank. Thus, in pursuance of the same, the CoC members have by 100% voting share resolved to liquidate the Corporate Debtor in its 2nd CoC meeting. The resolution that was put to vote in the 2nd CoC meeting is reproduced hereinunder:

***“RESOLVED FURTHER THAT** pursuant to Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and the regulations framed thereunder, the consent of the members of the Committee of Creditors be and is hereby accorded to initiate liquidation proceedings and filing of application with Hon'ble National Company law Tribunal seeking initiation liquidation of Corporate Debtor.*

***“RESOLVED FURTHER THAT** the Resolution Professional be and is hereby authorized to submit an application before the Hon'ble Adjudicating Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto.”*



8. In view of the above, having considered the submissions and on perusal of averments made in the present Interlocutory Application, this Bench is satisfied and is of a considered opinion that the present Interlocutory Application is in consonance with Section 33 of the Code. In the present case, the CIRP has already expired on 24.01.2024, without seeking any extension beyond 180 days period in terms of Section 12 of the Code. Further, there exists no asset of the Corporate Debtor due to which resolution for liquidation has been passed by the CoC members in 2nd CoC meeting. Also, as has been recorded in the Order of this Adjudicating Authority dated 12.02.2026, *“the CoC has also passed necessary resolution in terms of Regulation 39B & 39C regarding estimation of the liquidation cost and the commitment to bear such cost by the CoC”*.
9. Accordingly, this Adjudicating Authority is left with no other option except to pass an order for Liquidation of the Corporate Debtor in the manner laid down in Chapter III of the Code considering the fact that a resolution for the liquidation of the Corporate Debtor has been passed by the CoC members and that the timeline for the completion of the CIRP has already expired and no extension has been sought by the CoC.
10. In light of the above, the application is allowed by ordering liquidation of the corporate debtor, namely M/s Keep In Touch Clothing Private Limited with following directions:
 - a) That Mr. Brijesh Singh Bhadauriya, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional;
 - b) It is to be noted that, the Applicant has in prayer (c) of the instant Interlocutory Application prayed for his appointment as a Liquidator for the Corporate Debtor. Accordingly, the Applicant has given his consent in Form AA to act as a Liquidator in terms of



Section 34(1) of the Code. Also, the Applicant has placed on record a copy of Authorisation of Assignment (**AFA**) issued to the Applicant which is valid upto 30.06.2026;

- c) In view of the above, we hereby appoint Mr. Brijesh Singh Bhadauriya, holding Registration No. IBBI/IPA-002/IP-N01045/2020-2021/13385 as the Liquidator in terms of Section 34(1) of the Code;
- d) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016;
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation;
- f) 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;
- g) 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) This order shall be deemed to be 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;
- i) The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
- j) The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.



- k) The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- l) The Liquidator shall submit 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;
- m) Copy of this order be sent to the financial creditors, corporate debtor, CoC members and the Liquidator for taking necessary steps;
- n) The CoC is directed to pay the remuneration and expenses of the Applicant including that of professional advisors subject to the provisions of IBC Code, 2016 and CIRP Regulations, 2016.

11. Accordingly, I.A (Liq.)-2/2024 in CP (IB) No. 143/ND/2020 stands **allowed** and is disposed of in accordance with the aforesaid terms. Let a copy of the order be served to the parties.

Sd/-

MS. ANU JAGMOHAN SINGH
(MEMBER TECHNICAL)

Sd/-

SHRI MAHENDRA KHANDELWAL
(MEMBER JUDICIAL)