



**THE NATIONAL COMPANY LAW TRIBUNAL**

**COURT VI, NEW DELHI**

I.A. 2304/2021

IN

Company Petition No. (IB) – 2095/ND/2019

(Under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 for initiating liquidation process of Corporate Debtor and to pass other necessary directions)

**In the matter of**

**M/s Paisalo Digital Limited**

.... Financial Creditor

**M/s Chahal Parivahan Private Limited**

.... Corporate Debtor

**And in the matter of**

**Nitin Jain**

Resolution Professional of CD

Having Office at

E-10A, Kailash Colony, Greater

Kailash-1, New Delhi 110048

...Applicant/ Resolution Professional

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**CORAM:**

SHRI P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

For the Applicant: Ms. Mrinali Prasad, Adv.

**ORDER**

**PER- RAHUL BHATNAGAR, MEMBER (TECHNICAL)**

**Order Pronounced on: 01.12.2022**

1. This is an application filed by the Resolution Professional, Mr. Nitin Jain under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC, 2016/Code") for issuance of directions for liquidation of Corporate Debtor M/s Chahal Parivahan Private Limited on account of the fact that 330 days has been completed on 11.04.2021 and no resolution plan has been received in the present matter.
2. The facts in brief stated in the application is as under: -

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- I. That the Corporate Debtor is a company duly incorporated on 06.01.2017 and registered under the provisions of the Companies Act, 1956, with its registered office at House No. 5, shop no. 1, Block B-5, Model Town, Delhi-110009.
  
- II. That M/s Paisalo Digital Limited (hereinafter referred to as "Financial Creditor") is a non-banking financial company incorporated under the provision of Companies Act, 1956, having its registered office at 101, CSC, Pocket 52, CR Park and has been advancing loan to the Corporate Debtor at their request. The Corporate Debtor has defaulted in making payment therefore, the Financial Creditor filed a petition under section 7 of the Code for initiating CIRP against the Corporate Debtor. This Tribunal vide order dated 12.02.2020, initiated CIRP of the Corporate Debtor and appointed applicant as the Interim Resolution Professional.
  
- III. That pursuant to the appointment, applicant made public announcement in Form A on 21.03.2020 to invite claims of creditors of the Corporate Debtor. The last date for submission of claims was fixed for 03.04.2020.

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IV. That a committee of creditors (CoC) was constituted by the IRP on the basis of claim received from the sole financial creditor M/s Paisalo Digital Limited for an amount of Rs. 2,93,67,359/- (Rupees Two Crore Ninety-Three Lakh Sixty-Seven Thousand Three Hundred and Fifty-Nine). A report of constitution of committee of creditors was filed with the Tribunal and the same was taken on record by the Tribunal vide order dated 05.06.2020. That first meeting of CoC was held on 12.06.2020. In the said meeting, the applicant apprised the CoC that till the last date for receiving the claims, he had received claim from one financial creditor, whose claim had been verified from the documents and it had been admitted. Further the applicant apprised the CoC that pursuant to his appointment he had taken various actions as per the Code. The applicant had sent intimation letters to the suspended management of the Corporate Debtor and to banks and financial institutions for taking control of bank accounts of the Corporate Debtor. Further, the applicant apprised the CoC that as per list of vehicles shared by the Financial Creditor, the applicant found that only 19 vehicles are in the name of the Corporate Debtor. Further, the team of applicant visited the

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registered office of the Corporate Debtor, however the registered office of Corporate Debtor was found closed. In the said meeting, the applicant placed a resolution for his appointment as Resolution Professional from Interim Resolution Professional. The said resolution was approved with 100% of the voting share.

V. The 2<sup>nd</sup> meeting of CoC was convened on 07.08.2020, wherein the applicant apprised the CoC of the status of non-cooperation application filed against the suspended management for seeking direction against them for supply of information and documents sought by the applicant for the smooth running of CIRP. Further, the applicant apprised the CoC that in compliance of the circular issued by GST department the applicant has engaged M/s Guglani & Associates for obtaining a new GST number for the Corporate Debtor. The applicant apprised the CoC that the quotations have been sought from the registered valuers and a resolution for their appointment has been kept for the consideration of the CoC. The CoC passed the resolution for appointment of the registered valuers. In the said meeting the CoC also approved a resolution for publication of Form-G for

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inviting expression of interest from the prospective resolution applicants.

- VI. That 3<sup>rd</sup> meeting of the CoC was held on 08.09.2020, wherein the applicant apprised the CoC regarding the directions issued by the Tribunal in non-cooperation application filed by the RP against the suspended management. Further, the applicant apprised the CoC that the applicant has issued the appointment letters to the valuers with a remark that as and when information and assets will be made available by the suspended management, the assignment will commence by the valuers. The applicant shared the information memorandum after receiving confidentiality undertaking from the CoC.
- VII. That in the said meeting the applicant further apprised the CoC that pursuant to approval for publication of form-G, it was published on 12.08.2020 in Financial Express and Jansatta. However, till last date for receiving EoI, the applicant did not receive any expression of interest. Further an agenda on re-publication of Form--G was deliberated by the CoC and it was deferred to the next meeting of CoC, as documents and

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information were still not provided by the suspended management.

VIII. That 4<sup>th</sup> meeting of CoC was held on 30.09.2020, wherein the applicant apprised the CoC that the suspended management has provided very little information from the list of documents sought from them and based on the information provided the applicant is taking action against the debtor of the Corporate Debtor to recover outstanding dues from them. The applicant also informed that his team visited the RTO office situated at Burari and Rajpura to scrutinize all documents related to the vehicles which were registered in the name of the Corporate Debtor.

IX. That 5<sup>th</sup> meeting of CoC was held on 30.09.2020, wherein the RP apprised the status of persisting non-cooperation of the suspended management despite their repeated assurance to provide documents and information to the applicant. The applicant further apprised the CoC that he has sought quotation for appointment of accountant and statutory auditor for completion of books of accounts of the Corporate Debtor and its audit. However, the CoC deferred the agenda because due to non-



cooperation of the suspended management no information was available with the applicant for completion of the books of account.

X. The 6<sup>th</sup> meeting of CoC was held on 07.11.2020. The applicant apprised the CoC that he has received some details from the suspended management, however majority of information and documents have not been provided by the suspended management. The applicant further apprised the CoC that on 02.11.2020 this Tribunal directed the suspended management to provide possession of 19 vehicles to the applicant and all the MoUs executed with the third parties. However, despite such direction and undertaking by the counsel for suspended management, no possession had been handed over to the applicant. Further resolution was passed in the said meeting for appointment of M/s Priya Ranjan & Associates for the purpose of completing the books of account of the Corporate Debtor and M/s Kapoor Mittal & Associates to audit books of account for financial year 2017-2020. In the said meeting a resolution was passed for exclusion of lockdown period from 25.03.2020 to 30.06.2020 and

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a resolution for seeking extension of 90 days beyond 180 days.

- XI. That 7<sup>th</sup> meeting of CoC was held on 16.12.2020. The applicant apprised the CoC that despite repeated reminders to the suspended management the possession of 19 vehicles was not handed over to the applicant and only MoU of 53 vehicles had been provided so far, after repeated follow up with the suspended management.
- XII. The 8<sup>th</sup> meeting of COC held on 31.12.2020. The applicant apprised the CoC that despite repeated follow up with the suspended management for documents and possession of vehicles, the applicant has not received the majority of documents and possession of the vehicles till now, despite instructions from Tribunal. The applicant further proposed for re-publication of Form-G for inviting expression of interest from the prospective resolution applicant. The COC approved the resolution for re-publication of the Form- G.
- XIII. The 10<sup>th</sup> meeting of CoC was held on 25.02.2021. The applicant apprised the COC that claim of Shri Ram Transport Fin. Co. Ltd.

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has been provisionally admitted and the documents sought from them have been promised to be provided at the earliest by the representative of the creditor company. Applicant further apprised the CoC that 6 vehicles have already been sold by Shri ram Transport Fin Co. Ltd. out of which 4 vehicles were sold during the CIRP period. From the sale of those 4 vehicles during the CIRP period the creditor has received an amount of Rs. 6,03,805/-. The RP further wrote to Shri Ram Transport Fin. Co. Ltd. that the said sale has been carried out in violation of section 14 of the Code and the proceeds generated from such sale has to be deposited back to the account of Corporate Debtor. The Applicant further informed the CoC that he has not received any settlement agreement from the Corporate Debtor.

XIV. The 11<sup>th</sup> meeting of CoC was held on 18.03.2021. The applicant apprised the CoC that a sum of Rs. 603,805/- has been paid by Shri Ram Transport Fin. Co. Ltd. for the sale of 4 vehicles of the Corporate Debtor during CIRP period. The RP further apprised the CoC that in the hearing dated 10.03.2021, the legal counsel of the suspended management sought one month's time to effect the settlement, however, no efforts have been made by the suspended

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management towards settlement with the financial creditors.

- XV. The 12<sup>th</sup> meeting of CoC was held on 02.01.2021, wherein the applicant apprised the CoC that till now meaningful cooperation has not been extended by the suspended management nor the possession of vehicles have been transferred to the applicant yet. The applicant further apprised the CoC that 330 days were getting over on 11.04.2021 and no efforts have been made by the suspended management towards settlement of the present matter as submitted before the Tribunal on 10.03.2021. It was further informed to the CoC that 2<sup>nd</sup> Form G had been published by the applicant, however, no Expression of Interest had been received in the CIRP of the CD. Therefore, in absence of resolution plan and due to completion of 330 days the RP did not have a choice but to propose the Liquidation u/s 33(1) (a) of the Corporate Debtor. Accordingly, the RP proposed to Liquidate the CD and the said resolution was approved by 76.64 voting share of the CoC on 02.04.2021.
- XVI. That based on the facts stated above the applicant prayed initiation of the Liquidation against the Corporate Debtor under section

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33(1)(a) of the Insolvency and Bankruptcy Code, 2016 and appoint a Liquidator in Liquidation of the CD.

3. We have gone through the application filed by the applicant / Resolution Professional. The present application has been filed under section 33(1)(a) of the Insolvency and Bankruptcy Code.

The CoC passed a resolution in the 12<sup>th</sup> CoC meeting held on 03.04.2021 to liquidate the Corporate Debtor in terms of Section 33(1)(a) of the IBC, 2016 and the said resolution was approved by 76.64% of CoC members. Therefore, this Tribunal sees no merit in interfering with the commercial wisdom of the CoC.

4. It was observed that no name of Liquidator was proposed in the application filed by the Applicant. However, the applicant has filed a supplementary affidavit dated 19.04.2021 wherein the applicant has informed this Tribunal about an email received on 15.04.2021 from one of the Financial Creditors namely Paisalo Digital Limited who has proposed the name of CA Mukesh Gupta, to be appointed as liquidator in the present matter. A consent form dated 15.04.2021 was also annexed with the affidavit. On the request of

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the members of COC the applicant has filed the present supplementary affidavit.

5. In light of the above, the application is **allowed** by ordering liquidation of the corporate debtor, namely Chahal Parivahan Pvt Ltd. with following directions:

- a. That Shri Nitin Jain, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
- b. That Mr. Mukesh Gupta, holding Registration No. IBBI/IPA-001/IP-P-01494/2018-2019/12254 is appointed as the Liquidator in terms of Section 32(1) of the Code;
- c. 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;
- d. 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;

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- e. 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;
- f. 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.
- g. 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.
- h. 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.
- i. 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;

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- j. Copy of this order be sent to the financial creditors, corporate debtor, CoC members and the Liquidator for taking necessary steps;
- k. 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.

6. I.A 2304/ND/2021 filed in 2095/ND/2019 is disposed off in terms of the aforesaid terms.

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**(RAHUL BHATNAGAR)**  
**MEMBER (TECHNICAL)**

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**MEMBER (JUDICIAL)**