

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI

I.A. No. 2925/2021
Connected With IB-486/(ND)/2020

Section: Under Section 33(2) of the Insolvency and Bankruptcy Code,
Read with Regulations of IBBI (Liquidation Process) Regulations,
2016.

In the matter of:

DEWDROPS MERCANTILE PRIVATE LIMITED

Registered Office at: Stesalite Tower,
Block EP & GP, Plot No. E-2/3,
Salt Lake City, Sector- V,
7th Floor, Room No.5,
Kolkata- 700091, West Bengal

... Financial Creditor

Versus

METRO MANAGEMENT SERVICES PRIVATE LIMITED

Registered office at: L-60 B, Malviya Nagar,
New Delhi- 110017

...Corporate Debtor

In the matter:

METRO MANAGEMENT SERVICES PRIVATE LIMITED

(Through its Resolution Professional **Mr. Ashok Arora**)

Having IBBI Registration No. IBBI/IPA-003/ICAI-N-00279/2020-
2021/13170

...Applicant/Resolution Professional

Coram:

SH. P.S.N. PRASAD, Hon'ble Member (Judicial)

SH. HEMANT KUMAR SARANGI, Hon'ble Member (Technical)



Counsel for Applicant: Mr. Shashank Agarwal, Nainshree Goyal
Advocates
Counsel for Financial Creditor: Mr. Vishal Kapoor, Advocate

ORDER

Per P.S.N. PRASAD, MEMBER (JUDICIAL)

Date: 01.10.2021

1. This is an application filed by the Resolution Professional under Section 33 (2) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for order of liquidation of the Corporate Debtor, 'Metro Management Services Private Limited'.
2. The facts in brief are that an application for Corporate Insolvency Resolution Process was preferred by the Financial Creditor, 'M/s Dewdrops Mercantile Pvt. Ltd.', against Corporate Debtor, 'Metro Management Services Private Limited', under section 7 of IBC, 2016, on account of default. The Adjudicating Authority vide order dated 01.04.2021, admitted the said application and appointed the applicant Mr. Ashok Arora, as the Interim Resolution Professional of the Corporate Debtor.



3. The IRP issued a Public Announcement dated 09.04.2021 under Section 13 and 15 of the Insolvency and Bankruptcy Code, 2016, in daily newspaper 'Financial Express' in English and 'Jansatta' in Hindi in Prescribed Form A, and invited claims from the creditors of the Corporate Debtor. On receiving only one claim i.e., from Financial Creditor, M/s Dew Drops Mercantile Private Limited, the IRP constituted the CoC, in accordance with the provisions of section 21 of the Code, comprising of the said Financial Creditor as the sole COC member.
4. On first meeting of CoC held on 30.04.2021, the IRP was appointed as the Resolution Professional and the COC also appointed Ms. Aashlesha and Ms. Amandeep Kaur as the Registered Valuers for determining the fair value and Liquidation value of the Corporate Debtor. in the first meeting of COC.
5. The Applicant/Resolution Professional submitted that there were other financial creditors, who have not submitted there claims despite publication, therefore, the applicant sent various



reminder emails to all the creditors, However, none of the creditors have submitted their claims with the applicant.

6. The Applicant submitted that the 2nd COC meeting was held on 03.06.2021, wherein the sole COC member decided not to take up the agenda items, pertaining to preparations of information Memorandum and Invitation of Expression of Interest, instead at the 2nd COC meeting the sole COC member decided not to continue the CIRP as the Corporate Debtor has not been carrying out any activity for the last many years thus, there were no future business prospects for the Corporate Debtor.
7. The Resolution Professional further submitted that, at the 2nd COC meeting held on 03.06.2021, the sole COC member decided and passed a resolution under section 33(2) for initiating the Liquidation process of the Corporate Debtor.
8. This application has been filed as per the provisions of section 33 of IBC, 2016, of which the relevant sub-section 1 and 2 of section 33 is reproduced hereunder;



“33. (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 [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).

9. This Tribunal after taking into consideration the present facts, circumstances and the provisions of law, hereby order for liquidation of the corporate debtor and in the circumstances the corporate debtor stands Liquidated, and the incidence of liquidation is to follow, on and from the date of this order, in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

a. Mr. Ashok Arora, Resolution Professional holding registration no. IBBI/IPA-003/ICAI-N-00279/2020-21/13170, is appointed as Liquidator and has given his consent to act as the Liquidator, vide written communication dated 05.06.2021, under section 34 of the Insolvency and Bankruptcy code, 2016 read with Regulation 3 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.




- b. The Liquidator Mr. Ashok Arora is directed to take steps 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 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. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly in relation to other fiscal and regulatory authorities, which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation
- e. The Order of Moratorium, passed under Section 14 of the Insolvency and Bankruptcy Code, 2016, shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate

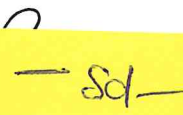


debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;

- g. The Liquidator is directed to proceed with the process of liquidation, in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016, and in accordance with the relevant regulations.
- h. 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.
11. Copy of this order be sent to the Corporate Debtor and the Liquidator for taking necessary steps.
12. That the IA/2925/(ND)/2021 filed in connection with IB-486/(ND)/2020 is disposed of in the aforesaid terms.


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**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**


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**(P.S.N. PRASAD)
MEMBER (JUDICIAL)**

RDS

Pronounced today under Rule 151 of NCLT Rules, 2016 as Hon'ble Member (T) Sh. Hemant Kumar Sarangi, is not holding the Court today.



Court Officer
01.10.2021