

**THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**CA-867(PB)/2018 & I.A. 3617(PB)/2020  
IN  
Company Petition No. (IB) – 508 (PB) /2017**

*Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016  
for liquidation of the corporate debtor*

In the matter of:

ELHPL Private Limited  
Through  
Mr. Rajiv Bajaj, Resolution Professional .... Applicant

VS.

Vidya Mandir Classes Ltd. .... Financial Creditor

**Order Pronounced on : 15.10.2020**

**Coram:**

**SHRI. B.S.V PRAKASH KUMAR  
HON'BLE ACTG. PRESIDENT  
SHRI. HEMANT KUMAR SARANGI  
HON'BLE MEMBER (TECHNICAL)**

For the Applicant: Mr. Ajay Kr. Jain, Mr. Atanu Mukherjee  
Advocates on behalf of R.P



## **ORDER**

### **PER- B.S.V PRAKASH KUMAR ACTG. PRESIDENT**

1. This is an application filed by the Resolution Professional, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation to Corporate Debtor, M/s. ELHPL Private Ltd.
2. The facts in brief are that one of the Corporate Debtor, namely ELHPL Private Limited, had filed an application under Section 10 of the Code bearing number IB- 508 (PB)/2017 for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 11.12.2017 initiating CIRP against the Corporate Debtor and there in, appointed Mr. Rajiv Bajaj, as the Interim Resolution Professional (IRP).
3. Thereafter in the constitution of Committee of Creditor held on 10.01.2018, comprising of two financial creditors i.e. ICICI Bank Ltd & Vidya Mandir Classes



Ltd. (VMCL). Further, the VMCL settled the debt of ICICI Bank Ltd. by paying an amount of Rs. 78.45 Crores and become a sole Financial Creditor of ELHPL, that has been recorded in the vide order dated 13.03.2018 passed by this Bench in IB- 508 of 2017.

4. Further, during the process of CIRP the Expression of Interest was issued thrice in several meetings of CoC, with the extended period sought from the Tribunal. Thereafter, during the extended period one party namely VM Global Institute Pvt. Ltd had proposed their Resolution Plan on vide letter dated 17.08.2018.
5. Thereafter, in the 10<sup>th</sup> CoC meeting held on 22.06.2020. the RP apprised the CoC about the withdrawal of the Resolution Applicant from the resolution plan and the actions of CD regarding vacation of the premises due to financial crisis. The CoC had further apprised about the Franchise agreement with Vidya Mandir Classes Limited has expired and the renewal was subject to the approval of



the Resolution Plan in favour of VMGL; since the RA had conveyed its decision to withdraw from the resolution plan, the franchise agreement has also not been renewed.

6. The CoC after all the discussions and deliberations on the entire aspect, concluded that there are no other avenues left but to explore the Liquidation process for CD and accordingly resolutions were passed by the CoC with 100% vote share on 22.06.2020.

***“RESOLVED THAT liquidation process be initiated for the CD under Chapter-III of the Code”***

***“RESOLVED THAT the RP to necessary steps under section 33(2) of the Code intimating the Adjudicating Authority the decision of the CoC to liquidate the CD.”***

***“RESOLVED THAT the liquidator’s Fee is hereby approved and be fixed as per Table under Regulation 2016, approved by the CoC with 100% vote share.”***

7. Therefore, the registered valuers to value the assets of the Company had appointed on 16.01.2018. On

valuation given by the valuers, the RP to determine the

average fair and liquidation value of the Corporate Debtor.

8. Further, in the same meeting the RP had submitted the estimated liquidation value of the assets of the CD based on the valuation reports obtained from the valuers, is approximately of Rs. 10 crores mentioned in the resolution plan.
9. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s ELHPL Private Limited with following directions:
  - a. The Mr. Rajiv Bajaj, holding Registration No. IBBI/IPA-002/IP-N00276/2017-2018/10834, having email- rbajajip@gmail.com is appointed as the Liquidator in terms of Section 32(2) of the Code;
  - b. 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;
  - 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 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. 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.
- f. 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.
- g. 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.

- h. 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;
  - i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;
10. It is seen that the RP has earlier filed an Application under Section 30(6) of IBC, 2016 seeking for approval of the Resolution Plan vide CA-867(PB)/2018, which is pending adjudication before this Tribunal. However, due to the global pandemic of Covid – 19 coupled with attendant lockdown being imposed by the Central Government from time to time, Resolution Applicant has decided not to proceed with the Plan. Taking into consideration the above piquant



circumstances, the CoC has convened its 10<sup>th</sup> CoC meeting on 22<sup>nd</sup> June, 2020 and passed a Resolution for Liquidation of the Corporate Debtor and accordingly the RP has filed IA-3617(PB)/2020 for the Liquidation of the Corporate Debtor.

11. In view of the forgoing circumstances, the IA-3617(PB)/2020 filed by the RP for Liquidation of the Corporate Debtor stands **allowed** and the CA-867(PB)/2018 filed by the RP seeking for approval of the Resolution Plan stands **dismissed as infructuous**.

Sd/—

(BSV PRAKASH KUMAR)  
ACTNG PRESIDENT

Sd/—

(HEMANT KUMAR SARANGI)  
MEMBER (TECHNICAL)