



**IN THE HON'BLE NATIONAL COMPANY LAW
TRIBUNAL**

BENCH-VI, NEW DELHI

I.A. 2723 of 2022

IN

Company Petition No. (IB)-817(ND)/2021

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

Mangaljyoti Syndicate Pvt. Ltd.

...Petitioner/Financial Creditor

VERSUS

Mahavir Richab Investments Pvt. Ltd.

...Corporate Debtor

IN THE MATTER OF:

Mr. Atul Kumar Kansal

Resolution Professional

Mahavir Richab Investments Pvt. Ltd.

Address: - SCO 61, 3rd floor

Old Judicial Complex Sector -15,

Civil Lines, Gurgaon – 122001

...Applicant

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In

(IB)- 817/(ND)/2021,



CORAM:

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

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER
(TECHNICAL)**

Counsel For the Applicant: Adv. Prachi Johri

For the Respondent: None

ORDER

PER- PSN PRASAD, MEMBER (JUDICIAL)

Order Pronounced on 24.08.2022

1. This is an application under Section 33(2) of Insolvency and Bankruptcy Code, 2016 to seek initiation of liquidation of the Corporate Debtor i.e. Mahavir Richab Investments Pvt. Ltd.

2. That the Applicant, Mr. Atul Kumar Kansal, bearing IBBI Registration No. IBBI/IPA-001/IP/IP-P00035-2016-17/10088 is an Insolvency Professional for this case appointed by this Tribunal for the Corporate Insolvency Resolution Process (CIRP) vide order dated 16.03.2022. He was further appointed as Liquidator through the resolution passed by the Committee of Creditors (CoC) and subsequently confirmed by this Tribunal.

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3. That the following facts were submitted to establish that Liquidation-application be allowed against the Corporate Debtor:

3.1. That this Adjudicating Authority has admitted Corporate Debtor into insolvency by its order dated 16.03.2022 under Section 7 of the Insolvency and Bankruptcy Code and Mr. Atul Kumar Kansal (Applicant) was appointed as Interim Resolution Professional (IRP).

3.2. That on 22.03.2022, as per the provisions of the Code, creditors were called upon through publication of advertisement in Hindi “Jansatta” and English newspaper “Financial Express” across Delhi & NCR region to submit their claims.

3.3. Two claim applications from financial creditors were received, namely Mangaljyoti Syndicate Pvt. Ltd. and PSB Industries for an amount of INR 1,07,01,685/- and INR 1,06,97,000/- respectively totaling to an amount of INR 2,13,98,685/-. Under S. 18(1) of the Code. The Applicant constituted CoC and filed report certifying constitution of CoC before the Hon’ble Authority. The voting share of Mangaljyoti and PSB Industries are 50.02% and 49.98% respectively.

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3.4. On 15.04.2022, 1st meeting of CoC was conducted and with 100% voting, applicant was continued as Resolution Professional (“RP”). Under S. 22(3)(a) of the Code and application was filed before this Hon’ble Authority to intimate about the same.

3.5. The RP has the duty to ensure revival of the corporate debtor. For this, financial creditors sought for the details of assets or immovable property of Corporate Debtor. The Applicant replied on behalf of the Corporate Debtor that it does not have any such assets. In the absence of such assets such as immovable property, business or in absence of revenue model, revival of Corporate Debtor seems impossible. The proposed resolution plan was not approved by CoC in its 2nd meeting dated 07.05.2022.

3.6. In the CoC meeting held on 21.05.2022, it was resolved to liquidate the Corporate Debtor and appoint Mr. Atul Kumar Kansal as Liquidator and file necessary application under S. 33(2) for Mahavir Richab Investments Pvt. Ltd.

3.7. In accordance with Regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency and Resolution for Corporate Persons) Regulations, 2016, liquidation cost is to be determined. The Corporate Debtor has INR 31,11,000/- in the

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ICICI bank account and liquidation costs amount to INR 5,25,000/- plus GST. For the same, the resolution was presented and passed by the CoC.

3.8. As per Regulation 39C of IBBI (CIRP) Regulations, 2016, the CoC may ask for sale of business as going concern. But in the situation of lack of sufficient assets, tangible and intangible goods such action is impossible and it was resolved by CoC not to sell business as going concern.

4. Having carefully gone through the application under S. 33(2), in light of the facts and process abided by law and in absence of any claim of financial creditors or any other complaint, this Tribunal is of the view that it is fit case to **allow** the initiation of liquidation process against the Corporate Debtor.

5. This Tribunal therefore hereby allows the application for the liquidation proceedings with the following order:-

5.1 IB No. 817/ND/2021 filed by Mr. Atul Kumar Kansal, (IBBI Registration No. IBBI/IPA-001/IP/IP-P00035-2016-17/10088) is allowed and the Corporate Debtor is ordered to be liquidated as proposed by CoC and in terms of S. 33(2) of the Code read with sub-section (1) thereof;

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5.2 The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

5.3 Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., Jansatta (Hindu) and Financial Express (English) of Delhi & NCR edition of the said newspapers stating that the Corporate Debtor is in liquidation.

5.4 All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with S. 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

5.5 The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

5.6 On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the Liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

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5.7 In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

5.8 In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, New Delhi, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, Delhi.

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(RAHUL BHATNAGAR)
Member (Technical)

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Member (Judicial)