

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, NEW DELHI  
BENCH III**

**IA-5316/2020** filed U/Ss. 33(1) R/w  
60 (5) of the IBC, 2016 R/w Rule 11  
of NCLT Rules, 2016.

**IN  
CP (IB)-905(ND)/2019.**

*In the matter of M/s. Valaya Clothing Private Limited.*

**Sudhir Sales & Services Ltd.**

*.....Operational Creditor*

Versus

**Valaya Clothing Pvt Ltd**

*.....Corporate Debtor*

*In the matter of IA-5316/2020*

**Deepak Maheshwari, Resolution Professional**

*....Applicant*

*Order delivered on 27<sup>th</sup> January 2021*

CORAM :

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)  
SHRI NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)**

For RP: Mr. Rakesh Singala, Mr. Anand Bajpai (Advocate), Mr. Deepak Maheshwari

**ORDER**

*Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)*

1. This relates to IA-5316/2020 filed in CP (IB)-905(ND)/2019 by Mr. Deepak Maheshwari (hereinafter referred to as 'Applicant) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016").

2. The prayers made in the Application are as follows: -

*"1. Exclude the CIRP period from 25.03.2020 to 30.06.2020 in the interest of justice.*

*2. Direct the CoC members to pay the outstanding CIRP Cost INR 322365/- with immediate effect.*

*3. Initiated the liquidation proceedings in wake of:*

*a. expiry of CIRP period,*

*b. no resolution plan received,*

*c. no feasibility of revival of business activity and*

*d. no response recorded thereof from the members of the CoC as well.*

*4. May appoint the current Resolution Professional Mr. Deepak Maheshwari as the liquidator for carrying out the liquidation process of the Corporate Debtor Valaya Clothing Pvt Ltd.*

*5. Take note of the tentative liquidation cost Rs. 300000/- assessed by the RP to be incurred by the liquidator for running the liquidation process till the date of realisation and also direct the CoC member to contribute for liquidation cost in case of realisation amount is insufficient to meet liquidation cost.*

*6. Pass any other Order as the Hon'ble Tribunal may deem fit in the interest of justice, equity, and good conscience."*

3. Originally CP (IB)-905(ND)/2019 filed under Section 9 of the IBC, 2016 by the Operational Creditors viz., *Sudhir Sales & Services Ltd.*, against the Corporate Debtor viz., Valaya Clothing Private Limited, (hereinafter referred as "Corporate Debtor") was admitted by this Authority vide Order dated 26.11.2019, the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor, moratorium was declared and Resolution Professional viz., *Mr. Deepak Maheshwari* was appointed as Interim Resolution Professional (hereinafter referred as "IRP").

4. It is averred that pursuant to the Order of this Authority dated 26.11.2019, the IRP had taken over the management of the Corporate Debtor and had issued the Newspaper Publication in two newspapers as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors. After verification of the claims received, the IRP constituted the Committee of Creditors (hereinafter referred to as "CoC") consisting of two Operational Creditors and Assessing Authority, Gurgaon (W) through Excise & Taxation Commissioner. The 1<sup>st</sup> CoC Meeting was convened on 12.02.2020 wherein it was resolved and confirmed that Mr. Deepak Maheshwari the IRP to act as Resolution Professional.

5. The 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> CoC Meetings were held on 01.07.2020, 09.07.2020 and 31.07.2020 respectively, in which the members of the CoC were present and discussed regarding the recovery from the assets of the Corporate Debtor. Thereafter two consecutive CoC meetings dated 08.08.2020 and 29.09.2020 were convened, but no members of the CoC had attended the meeting therefore, no

decision could be arrived at.

6. As seen from records vide Order dated 08.12.2020, the Applicant was directed to file a supplementary Affidavit giving detailed reasons that liquidation Order will not be useful and dissolution Order need to be passed. In compliance with the Order, the Applicant has filed a supplementary Affidavit wherein, it is submitted that the assets of the Corporate Debtor are negligible to meet the total liabilities of Rs. 529.74 Lakhs and therefore, the revival of the Corporate Debtor is not possible and running the full liquidation process will not yield any value to the creditors. Therefore, the Applicant has prayed to **dissolve** the Corporate Debtor without undergoing the process of Liquidation.

7. In the given facts and circumstances of the case, it is justifiable that no useful purpose would be served by placing the Corporate Debtor under a Liquidation Process, as there are no assets. The ultimate objective of the Code is either to revive the corporate debtor by way of a Resolution Plan, if any, failing which the liquidation and dissolution would follow. In short, in the facts and circumstances of the case, it is a fit case to order dissolution of the Corporate Debtor viz., M/s. Valaya Clothing Private Limited without following the liquidation process.

8. In view of the facts and circumstances recorded by Resolution Professional in IA-5316/2020 filed in CP (IB)-905(ND)/2019 and in exercise of the powers conferred under Sub-section (2) of Section 54 of IBC, 2016 R/w Rule 11 of NCLT Rules, 2016, this Authority proceeds to pass dissolution order of the Corporate Debtor viz., M/s. Valaya Clothing Private Limited, from the date of this order and the RP stands

relieved subject to the direction that he shall preserve the record of the CD as prescribed.

9. The RP and the Registry are directed to send the copy of this Order within 7 days from the date of pronouncement, to the RoC concerned with which the Corporate Debtor is registered.

10. In terms of the above, the Application stands **disposed of**.

11. The Order is pronounced through video conferencing

— Sd—

**NARENDER KUMAR BHOLA**  
Member (Technical)

— Sd—

**(CH. MOHD SHARIEF TARIQ)**  
Member (Judicial)