

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

IA-2942/ND/2020
IN
Company Petition No. (IB)-1154(ND)/2019

IN THE MATTER OF :

M/s. Gulati Retail India Limited

....Corporate Debtor

AND IN THE MATTER OF :

Mr. Arun Chadha
Resolution Professional
M/s. Gulati Retail India Limited
727, Brahmpuri
Meerut- 250002, UP

...Resolution Professional/Applicant

Order Delivered on: 31.08.2020

Section: 33(2) of the IBC, 2016.

CORAM:

CH. MOHD. SHARIEF TARIQ, MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Mr. Ahsan Ahmad, Advocate



PER SHRI L. N. GUPTA, MEMBER (T)

The Application has been filed by Mr. Arun Chadha, the Resolution Professional of M/s Gulati Retail India Limited under Sections 33(2) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred as the "Code") for seeking the following main reliefs :

- "i. Pass an order for the initiation of liquidation process of the Corporate Debtor i.e., Gulati Retail India Limited under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016.*
- ii. Pass an order for appointment of the Resolution Professional, Mr. Arun Chadha, as the Liquidator of the Corporate Debtor under Section 34 of the Insolvency and Bankruptcy Code, 2016."*

2. Facts of the case in brief are that the Corporate Debtor, M/s Gulati Retail India Limited had filed an Application bearing No. (IB)-1154(ND)/2019 under the Section 10 of the Code for initiating its Corporate Insolvency Resolution Process (CIRP). The said Application was admitted by this Tribunal vide Order dated 30.07.2019 and Mr. Arun Chadha was appointed as the Interim Resolution Professional (IRP).

3. In terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a



public announcement in Form-A, which was published in the newspapers namely, the Financial Express (English) and Jansatta (Hindi) on 08.09.2019. The public announcement was also uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

4. The Interim Resolution Professional constituted a Committee of Creditors (CoC), which comprised of ICICI Bank, Punjab & Sind Bank after verification of the claims received from them.

5. That the IRP Mr. Arun Chadha was confirmed as Resolution Professional (RP) of the Corporate Debtor vide Order dated 18.11.2019 passed by this Tribunal.

6. It is submitted by the Applicant that the CoC Members in its 4th meeting held on 04.01.2020 did not take any decision as they needed approval of their higher authorities to consider the agenda item on publication of the Expression of Interest (EOI). The 5th meeting was held on 04.02.2020, which with 100 percent of voting share did not approve the resolution relating to publication of invitation of EOI in the Form-G.

7. It is stated by the Applicant that an agenda for publication of invitation of EOI was again placed in the 6th Meeting of CoC held on 29.02.2020 for approval. The CoC representing 100 percent of the voting share rejected the same. The CoC instead resolved to pass the following Resolution for initiation of liquidation process of the Corporate Debtor :



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"RESOLVED THAT pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016 and the relevant provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and other applicable provisions of the law, the consent of the Committee of Creditors be and is hereby accorded to initiate liquidation process of the corporate debtor.

RESOLVED FURTHER THAT Mr. Arun Chadha, Resolution Professional, be and is hereby authorized to file an application before the Hon'ble Adjudicating Authority seeking order/ direction for initiation of liquidation process of the corporate debtor and to do such acts, deeds and things as may deem incidental and ancillary thereto.

RESOLVED FURTHER THAT pursuant to Section 34 of the Insolvency and bankruptcy Code, 2016 and the Regulations framed thereunder, the consent of the Committee of Creditor be and is hereby accorded to Mr. Arun Chadha, Resolution Professional of the corporate debtor, having Registration No IBBI/IPA-001/IP-P00165/2017-18/10334 to be appointed as liquidator to carry out liquidation process of the corporate debtor."

8. It is stated by the Applicant that the aforesaid Resolutions were passed with 100% voting share of the CoC.

9. That the RP Mr Arun Chadha has also filed his written consent on 29.02.2020 to act as Liquidator as required under the Section 34(1) of IBC 2016.



10. In the circumstances, this Bench is inclined to order Liquidation of the Corporate Debtor in terms of Section 33(2) read with explanation below thereto of the I & B Code, 2016.

11. In sequel to the above, the Application is allowed, ordering Liquidation of the Corporate Debtor, M/s Gulati Retail India Ltd., in the manner as laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant Rules and Regulations along with the following directions :


- a. Mr. Arun Chadha, IBBI Registration No. IBBI/IPA-001/IP-P00165/2017-18/10334, is appointed as Liquidator, who has given his written consent to act as Liquidator in terms of Section 34 (1) of IBC 2016.
- b. The Liquidator, is directed to issue public announcement clearly stating that the Corporate Debtor is under Liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- 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 a notice of discharge to the officers, employees and the workmen of the corporate

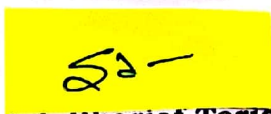


debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;

- e. Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued and preferential transactions etc., if any.
- f. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five (75) days from the liquidation commencement date as per the Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- g. The Registry is directed to communicate a copy of this Order to the Financial Creditors, the Corporate Debtor and Liquidator Mr. Arun Chadha at the earliest but not later than seven days from today.
- h. A copy of this Order be also sent to the ROC for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT within a period of 30 days.
- i. The Registry is directed to communicate this Order to the Insolvency and Bankruptcy Board of India;

12. IA-2942/2020 filed in IB-1154(ND)/2019 is **allowed** in the aforesaid terms


(L. N. Gupta)
Member (T)


(Ch. Mond. Sharief Tariq)
Member (J)

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I.A. No. 2942/ND/2020 in C.P. No. (IB)-1154(ND)/2019
M/s Gulati Retail India Ltd.

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

COURT – II

Item No. 102

(IB)- 1154(ND)201 9 & IA/2942/2020

IN THE MATTER OF:

M/s. Gulati Retails India Ltd.

SECTION :10 of IBC Code,2016

Order Delivered on 31.08.2020

CORAM:

**SHRI. CH. MOHD. SHARIEF TARIQ
HON'BLE MEMBER (J)**

**SHRI L.N. GUPTA,
HON'BLE MEMBER (T)**


PRESENT:

ORDER

Order is pronounced.



**(L. N. GUPTA)
MEMBER (T)**



**(CH. MOHD. SHARIEF TARIQ)
MEMBER (J)**