

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 108
(IB)-230(PB)/2021

IN THE MATTER OF:

M/s Kaliber Associates Pvt. Ltd. Through ... Petitioner/Applicant
its Liquidator Mohan Lal Jain
v.
HPT Constructions Pvt. Ltd. Respondent

Order Under Section 7 of Insolvency & Bankruptcy Code (CIRP)

Order delivered on 02.09.2022

CORAM:
JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP Mr. Rajiv Bajaj, RP with Mr. Vinod Kumar
 Chaurasia, Adv. in IA-3710/2022 & IA-
 230/2022

ORDER

IA-3710/2022

1. This is an application filed by the Resolution Professional ('RP') upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, viz., HPT Constructions Private Limited [CIN: U70101DL2011PTC221122]. The present application has been filed under section 33 of IBC, 2016 seeking Liquidation of the Corporate Debtor and seeks for the following reliefs:

“(a) to pass an order for liquidation of the corporate debtor under section 33(2) of IBC, 2016;

(b) to appoint liquidator from list of the panel maintained by IBBI and;

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(c) pass any other/ further order(s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the present case."

2. This Adjudicating Authority, vide its order dated 01.04.2022 on a Petition filed by Financial Creditor namely, Mr. Kaliber Associates Pvt. Ltd. ('Financial Creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 ('the Code'), directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed Mr. Rajiv Bajaj as the Interim Resolution Professional ('IRP') who was confirmed as RP.
3. The reasons for the prayer are given in Para 15 which is extracted hereinbelow: -

"15. It is also pertinent to mention that:

- 1. the corporate debtor is defunct;*
- 2. is not a going concern;*
- 3. No Business Model;*
- 4. No employees in Corporate Debtor;*
- 5. No participation by suspended board of directors in CIRP proceedings;*
- 6. No Tangible asset to be realized and*
- 7. No Resolution Plan received till date"*

4. The liquidation proposal has been approved by the CoC with 100% voting share on 20.07.2022 stating the reasons for going in for liquidation as that the Corporate Debtor has no tangible asset as on date, no business model, no workman/employee in the company, Suspended Board of Directors are not participating in the CIRP, the Corporate Debtor is defunct and has no bank account exists as on date.

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5. The Ld. Counsel Mr. Rajiv Bajaj for the RP has expressed his inability to continue as the Liquidator, therefore, he requests to appoint a liquidator from the list of Liquidators/ Insolvency Professionals maintained by IBBI.
6. Hence, the RP has filed the present application under section 33(2) of the Code, before this Adjudicating Authority for liquidation of the Corporate Debtor and appointment of liquidator. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A. No. 3710/2022 filed by Mr. Rajiv Bajaj, RP of HPT Constructions Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code.
 - b. ~~Mr.~~ Mr. Gulshan Kumar Gupta [Reg. No IBBI/IPA-001/IP-P00021/2016-2017/10046]; Email: ipgulshan@gmail.com; Address: 202, Kumar House, Central Market, Prashant Vihar ,New Delhi, National Capital Territory of Delhi ,110085; is hereby appointed as liquidator as provided under section 34(1) of the Code, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
 - c. 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.
 - d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in liquidation.
 - e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with

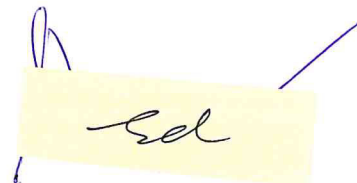
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section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

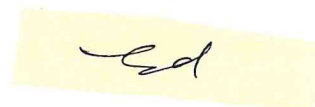
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- h. 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.
- i. 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.
- j. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order to the Registrar of Companies, NCT of Delhi & Haryana; Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;

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- k. 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.
- l. 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;
- m. Copy of this order be sent to all the parties and their Ld. Counsel for information and for taking necessary steps.
- n. The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- o. The Liquidator is directed to complete the process early and to proceed further as per the law.
7. The application bearing **IA No. 3701/2022** filed in **(IB)-230(PB)/2021** shall stand disposed of in accordance with the above directions.



(RAMALINGAM SUDHAKAR)
PRESIDENT



(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)