

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT V**

I.A. 528 OF 2022

IN

CP (IB) – 1088/IBC/MB/2020

Under Section 33 (1) of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Anshul Gupta

Resolution Professional for:

Topsgrup Services and Solutions Limited

...Applicant

In the matter of

**Punjab National Bank (International)
Limited**

...Financial Creditor

Versus

**Topsgrup Services and Solutions
Limited**

...Corporate Debtor

Order Pronounced On: 21.09.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance:

For the Applicant: Mr. Nishit Dhruva a/w Ms. Aalisha Sharma i/b
MDP & Partners, Advocates for the Resolution Professional

1. The above application I.A. No. 528/2022 is filed by Resolution Professional, Mr. Anshul Gupta (hereinafter referred to as the “Applicant”) seeking liquidation of Topsgroup Services and Solutions Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. That this Hon’ble Tribunal be pleased to Order and direct the Corporate Debtor to be liquidated in accordance under Section 33(1) of the Code.*
- b. That this Hon’ble Tribunal be pleased to appoint the Applicant i.e. Mr. Anshul Gupta having Registration No. IBBI/IPA-002/IP-N00310/2017-2018/10899 as the liquidator of the Corporate Debtor.*
- c. For Such other and further reliefs as this Hon’ble Tribunal may deem fit in the facts and circumstances of the present case.*

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 19.02.2021 in Company Petition No. 1088/IBC/MB/2020 admitted the petition under Section 7 of the Code, filed by Punjab National Bank (International) Limited (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process was initiated against the Topsgroup Services and Solutions Limited (hereinafter referred to as the “Corporate Debtor”) . Mr. Rajendra Karanmal Bhuta was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.

- B. Applicant submits that a Public Announcement in Form-A was made on 23.02.2021 in two newspapers viz. “Free Press Journal” and “Navakal” thereby inviting claims from all the Creditors to be filed by 10.03.2021.
- C. On 05.04.2021, the 1st meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) was convened wherein inter alia the IRP informed the COC that his certificate of Authorisation of Assignment had expired on 04.03.2021 which could not be renewed as he had reached the maximum age of 70 years. Thus, the COC members would provide a name of Resolution Professional to carry on the duties of CIRP and IRP would continue to perform all the functions till the appointment of the Resolution Professional.
- D. On 07.05.2021, the 2nd COC meeting was convened wherein Resolution was passed for appointment of registered valuers accordingly Resolution Professional has appointed valuer as required under Regulation 27 of IBBI (IRP for corporate persons) Regulation, 2016 and the Information memorandum was prepared as provided under Regulation 36 (1) of the said regulation.
- E. The Applicant submits that on 15.05.2021, the 3rd meeting of COC was convened inter alia the Applicant’s Appointment as the RP of the Corporate Debtor was approved by the COC and Mr. Anshul Gupta was appointed as RP which was approved by this tribunal on 27.07.2021 wide its order IA/1341/MB/2021.

- F. The Applicant had in accordance with the approval of Committee of Creditors carried out in 2nd, 5th & 7th COC meeting had issued Expression of Interest in Form-G on 20.05.2021, 20.07.2021 and 08.10.2021 respectively. Last date for receipt of expression of interest is 23.10.2021 and last date for submitting Resolution Plan is 07.12.2021.
- G. Pursuant to the above application RP has received one EOI from Prospective Resolution Applicant thereafter on 11th COC meeting the feasibility and viability of the resolution plan received from the Prospective Resolution Applicant i.e M/s Secure IT Facility Management Private Limited and the same was approved by 59.82% and rejected by 40.18% voting which is less than prescribed percentage for the approval of resolution plan, hence leading to the rejection of the Resolution Plan by the COC.
- H. The Applicant submitted that in the 12th COC meeting dated 16.02.2022 only one Resolution Plan was received from M/s Secure IT Facility Management Private Limited which was put for E-voting.
Further Applicant submits that the Plan submitted by M/s Secure IT Facility Management Private Limited was not approved by the COC with majority of votes. The Applicant further submits that as the process was nearing the estimated closure date 27.02.2022 of CIRP, hence Liquidation was the only viable option left in the absence of the approved Resolution Plan.
- I. The Applicant further submits that the Resolution Professional Mr. Anshul Gupta (Registration No. IBBI/IPA-

002/IP-N00310/2017-18/10899) being eligible, offered himself to be appointed as Liquidator of the Corporate Debtor. The COC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator in writing dated 24.02.2022.

3. The Applicant filed I.A (I.B.C)/ 528(MB)/2022 before Hon'ble Tribunal seeking Liquidation application wherein Hon'ble Tribunal vide its order dated 02.03.2022 urges member of COC to convene a meeting and reconsider the resolution plan submitted by M/s Secure IT Facility Management Private Limited (hereinafter referred to as "Prospective Resolution Applicant") and extended the CIRP Period till 24.03.2022.
4. On 17.03.2022, 14th COC Meeting was convened which was attended by only two COC members namely Punjab National Bank (International) Limited and Indian Bank.
Punjab National Bank (International) Limited had proposed the Resolution plan be put to vote to expedite the process. As per the direction of the Hon'ble Tribunal, the Applicant stated that the Resolution Plan could be put to vote only after an approval for reconsideration of the Resolution Plan which requires the Resolution Applicant to re-submit the Earnest Money Deposit which was returned back due to the rejection of the Resolution Plan.
5. On 23.03.2022, Union Bank of India vide an email addressed to the Applicant stated that they had rejected the Resolution Plan submitted by the prospective Resolution Applicant.

6. On 25.03.2022, The Applicant vide email addressed to the prospective Resolution Applicant requested to submit a revise Resolution Plan, if any till 26.03.2022 by 6 p.m., Further replying to the request of the Applicant, The prospective Resolution Applicant vide email dated 25.03.2022 withdrew their interest to submit the Resolution Plan. Hence, Applicant filed his application for Liquidation under section 33 of the Code.
7. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 12th CoC meeting that the COC unanimously decided to liquidate the Corporate Debtor. Even though the COC in its 12th meeting unanimously decided to liquidate the Corporate Debtor, no voting was conducted in this regard for the reason best known to the COC. It is important to observe here that more than 397 days has been elapsed without any Resolution application and therefore this Tribunal by virtue of powers conferred under section 33(1)(b)(i), orders Liquidation.

ORDER

1. The above I.A. No. 528/2022 is allowed and the Corporate Debtor Topsgroup Services and Solutions Limited is ordered to be liquidated.
 - a. **Mr. Anshul Gupta**, having Registration No. IBBI/IPA-002/IP-N00310/2017-2018/10899, having office at: Flat No. 1501, Tower No.4, Spring Groove Towers, Lokhandwala Township, Kandiwali East, Mumbai City- 400101, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- f. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. That on having liquidation process initiated, 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.

- h. 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.

With the above directions, this application i.e. I.A. No. 528 of 2022 is hereby allowed and disposed of.

Sd/-

Anuradha Sanjay Bhatia
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)