

THE NATIONAL COMPANY LAW TRIBUNAL

COURT VI, NEW DELHI

I.A. 5257/2022

IN

Company Petition No. (IB) – 2484/ND/2019

*(Under Section 33 of the Insolvency and Bankruptcy Code, 2016
for initiating liquidation process of Corporate Debtor and to pass
other necessary directions)*

IN THE MATTER OF

M/s Adecco India Private Limited

.... Operational Creditor

M/s Aventura Components Private Limited

.... Corporate Debtor

AND IN THE MATTER OF

Ravindra Kumar Goyal

Resolution Professional of CD

Having its office at: -

Eden I - 807, S G Highway,

Godrej Garden City, Jagat Pura,

Ahmadabad, Gujarat - 382470

...Applicant/ Resolution Professional

CORAM:

**SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER
(JUDICIAL)**

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant: Adv Samaksh Goyal

ORDER

PER- RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Pronounced on: 05.01.2024

1. This is an application filed by the Resolution Professional, Mr. Ravindra Kumar Goyal, under Section 33 and 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC, 2016/Code") read with Rule 11 of National Company Law Tribunal Rules, 2016 for issuance of directions for liquidation of Corporate Debtor M/s Aventura Components Private Limited.
2. The facts in brief stated in the application is as under: -

- I. That M/s Adecco India Private Limited had filed an application against the Corporate Debtor under section 9 of the Insolvency and Bankruptcy Code, 2016 for initiating CIRP against the Corporate Debtor. This Adjudicating Authority vide order dated 12.02.2021 initiated CIRP of the Corporate Debtor and Mr. Satya Prakash was appointed as the Interim Resolution Professional.
- II. That pursuant to the appointment, public announcement in Form A was made on 15.03.2021 to invite claims of creditors of the Corporate Debtor. The last date for submission of claims was fixed for 29.03.2021.
- III. That a committee of creditors (CoC) was constituted by the IRP on the basis of claim received from creditors and 1st meeting of CoC was held on 15.04.2022 wherein the CoC resolved to appoint the IRP as RP in the matter.
- IV. That the RP prepared Information Memorandum in compliance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016 on 04.05.2021.

- V. In the 3rd meeting of CoC dated 31.05.2021, the CoC passed a resolution for replacing the RP i.e., Mr. Satya Prakash by appointing the applicant (Mr. Ravindra Kumar Goyal) as RP in the CIRP of Corporate Debtor. The CoC moved an application bearing IA 2662/2021, seeking replacement of RP with the applicant which was allowed by this Adjudicating Authority vide order dated 12.07.2021.
- VI. The Applicant/ RP published Form G on 06.08.2021 in Morning Standard (English, Delhi Edition) and Dainik Uttam (Hindi, Delhi Edition)
- VII. That pursuant to publication of Form G, the RP received 11 Expression of Interest out of which 4 PRA(s) have submitted the documents as per the process memorandum.
- VIII. That in the 6th meeting of CoC held on 20.11.2021, it was decided by the members of CoC to extend the last date of submission of Resolution Plan by 30.10.2021.
- IX. That till the last date of submission of Resolution Plan only one

plan was received by the RP, which was rejected by the members of CoC on the ground that overall plan amount offered was very low and the proposal for release of personal guarantee was not acceptable to the members of CoC and accordingly, in the 10th meeting of CoC held on 04.05.2022, the members of CoC passed a resolution for initiation of Liquidation of Corporate Debtor and proposed the name of applicant to be appointed as Liquidator in the matter which was approved by the CoC members with 100% voting shares.

- X. That based on the facts stated above the applicant prayed initiation of the Liquidation against the Corporate Debtor under section 33 of the Insolvency and Bankruptcy Code, 2016.
3. We have gone through the application filed by the applicant / Resolution Professional. The present application has been filed under section 33 of the Insolvency and Bankruptcy Code; the relevant extract of the section is reproduced as under: -

Section 33: Initiation of liquidation.

33. (1) *Where the Adjudicating Authority, —*

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than sixty-six per cent. of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution

under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]

4. The CoC has expressed its opinion in the 10th CoC meeting held on 04.05.2022 that one Resolution Plan was received by the RP, which was rejected by the members of CoC on the ground that overall plan amount offered was very low and the proposal for release of personal guarantee was not acceptable to the members of CoC. Hence, the members of CoC decided to go for liquidation of the CD which was approved by members of CoC with 100% voting shares. Therefore, this Adjudicating Authority sees no merit in interfering with the commercial wisdom of the CoC.
5. In light of the above, the application is **allowed** by ordering liquidation of the Corporate Debtor, namely M/s Aventura Components Private Limited with following directions:
 - a. That Mr. Ravindra Kumar Goyal, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
 - b. That Mr. Ravindra Kumar Goyal has given its consent to act

as Liquidator in the matter. However, the Insolvency and Bankruptcy Board of India (“IBBI”) vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in exercise of its powers conferred under Section 34(4)(b) of the Code has recommended that an IP other than the RP/IRP may be appointed as Liquidator in all the cases where Liquidation order is passed henceforth and the Liquidator can be appointed from the panel list of the IBBI. Therefore, from the panel of Insolvency Professional(s) (IPs) valid for the period – January, 1, 2024 – June, 30, 2024 issued by IBBI, this Adjudicating Authority, hereby appoints Mr. Anil Kumar Mittal (Email – fcs.akmittal@gmail.com), Reg. No: IBBI/IPA-003/N-00305/2020-2021/13289, as the Liquidator in the matter. The Liquidator is directed to file the Declaration Disclosure Statement and Authorization for Assignment details within 7 (Seven) days from the date of pronouncement of this order with the Registry.

- c. Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency

- and Bankruptcy Board of India;
- d. 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;
 - e. This order shall be deemed to be 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;
 - f. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
 - g. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
 - h. 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.

- i. 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;
 - j. The Registry is directed to forthwith serve a copy of this order to the Financial Creditors, Corporate Debtor, CoC members and the appointed Liquidator for taking necessary steps;
 - k. The CoC is directed to pay the remuneration and expenses of the Applicant including that of professional advisors subject to the provisions of IBC Code, 2016 and CIRP Regulations, 2016.
6. IA 5257/2022 filed in 2484/2019 is disposed of in terms of the above.

SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)