

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

IA-5719/2020 filed under Section 33(2) of the Insolvency  
and Bankruptcy Code, 2016 in CP (IB)-1155(ND)/2019

In the matter of M/s. Vardaan Contracts Pvt. Ltd.

**Mr. Mukesh Jain**  
Proprietor M/s. Paras Traders

.....Operational Creditor

Versus

**M/s. Vardaan Contracts Pvt. Ltd.**

.....Corporate Debtor

In the matter of IA-5719/2020

**Mr. Rajesh Kumar Gupta**  
Interim Resolution Professional

....Applicant

Versus

**Mr. Naveen Puri & Anr.**

.....Respondents

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

CORAM:

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

For Applicant : Mr. Gautam Singhal (Advocate)

**ORDER**

(Through Video Conferencing)

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

1. This relates to IA-5719/2020 filed in CP (IB)-1155(ND)/2019 filed by the Interim Resolution Professional Mr. Rajesh Kumar Gupta (hereinafter referred to as 'Applicant) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

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

*"a) Pass an appropriate Order to allow the instant Application.*

*b) Pass an appropriate Order to commence the Liquidation proceeding of the Corporate Debtor i.e., M/s. Vardaan Contactors Private Limited.*

*c) Appoint the applicant as Liquidator of the Corporate Debtor i.e., M/s. Vardaan Contactors Private Limited.*

*d) Pass an appropriate Order that the Order of Liquidation is a notice of discharge to the employees, officials, workmen etc. and*

*e) Pass further order (s)/director (s) and other relief (s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the present case and in the interest of justice."*

3. Originally an Application CP (IB)-1155(ND)/2019 was filed under Section 9 of the IBC, 2016 by the Operational Creditors viz., *Mr. Mukesh Jain Proprietor of M/s. Paras Traders*, against the Corporate Debtor viz., *M/s. Vardaan Contracts Private Limited*, (hereinafter referred as "Corporate Debtor") was admitted by this Authority vide Order dated 19.02.2020, the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor, moratorium was declared and Resolution Professional viz., *Mr. Rajesh Jangra* was appointed as Interim Resolution Professional (hereinafter referred as "IRP").

4. It is averred that pursuant to the Order of this Authority Vide Order dated 02.11.2020, Mr. Rajesh Kumar Gupta was appointed as the IRP. Subsequently, the IRP took over the management of the Corporate Debtor and made Newspaper Publication on 08.11.2020 in two newspapers as provided in Section 15 IBC, 2016 R/w 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. The IRP collated the claims and constituted the Committee of Creditors on 28.11.2020 (hereinafter referred to as "CoC") with three Operational Creditors as member having 100% voting rights and a necessary report dated 03.12.2020 was filed with this Authority. The Applicant on 28.11.2020 issued notice and agenda for the 1<sup>st</sup> CoC Meeting, which was convened on 04.12.2020. The Applicant in the 1<sup>st</sup> CoC Meeting offered to act as a Resolution Professional.

5. The members of the CoC in the 1<sup>st</sup> CoC Meeting considered the fact that there have been no business activities in the Corporate Debtor for the last two years and it would be waste of efforts and resources to revive the Corporate Debtor, therefore, it was proposed to liquidate the Corporate Debtor. The members of the CoC appointed Mr. Gautam Singhal, Advocate as Legal Professional for filing appropriate applications and other necessary compliances before this Authority. It was further decided to authorise the Applicant to move an application for Liquidation of the Corporate Debtor. The Resolution passed in this regards with 100% majority is under:

***"Resolved That,** the consent of members be and is hereby granted to initiate the procedure of Liquidation against the M/s. Vardaan Contracts Pvt Ltd. (Corporate Debtor) and Mr. Rajesh Kumar Gupta, an Insolvency Professional*

*(Reg. No. IBBI/IPA-003/IP-N00198/2018-19/12308) be and hereby appointed as the Liquidator for the Liquidation Process of M/s. Vardaan Contracts Pvt. Ltd. At the fee calculated as per Regulation 4 of IBBI (Liquidation Process), 2016. ”*

*“FURTHER Resolved THAT, the members hereby ratify the appointment of Mr. Gautam Singhal, Advocate having office at Chamber No.1, Patiala House Courts, New Delhi-110001, as Legal Professional for filing appropriate applications as per the provisions of the Insolvency and Bankruptcy Code, 2016 with a professional fee of Rs. 25,000/-(Rupees Twenty five thousand Only) for drafting and filing of Liquidation applications including travelling, boarding and Lodging expenses as per actual upon submission of bills to complete the assign work.”*

6. The Members of the CoC considered the list of expenses incurred/to be incurred by the Applicant and passed the following resolution by 100% voting share:

*“**Resolved that,** the expenses incurred/to be incurred by the Interim Resolution Professional amount to Rs. 29,088.26 be and is hereby ratified by the Committee of Creditors and that to be paid by the Operational Creditors. The same shall form part of the CIRP cost and to be reimbursed to the Operational Creditor to the extent of amount remitted by them.”*

7. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the IBC, 2016, before the expiry of the Corporate Insolvency Resolution Process, the Corporate Debtor viz., M/s. Vardaan Contracts Private Limited has to be ordered for Liquidation.

## ORDER

8. In view of the facts and circumstances recorded by Resolution Professional in IA-5316/2020 filed in CP (IB)-1155(ND)/2019 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the IBC, 2016, this Authority proceeds to pass Liquidation Order as follows: -

- I. This Authority hereby orders for liquidation of the Corporate Debtor viz., M/s. Vardaan Contracts Pvt. Ltd., which shall be conducted in the manner as laid down in Chapter III of part II of the IBC, 2016;
- II. This Authority hereby appoints Mr. Rajesh Kumar Gupta as Liquidator as has been proposed by the CoC, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;
- III. The moratorium declared under Section 14 of the IBC, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the IBC, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

- VI. This Order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- VII. All the 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 viz., Mr. Rajesh Kumar Gupta. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the IBC, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- IX. The Company Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

9. In terms of the above, IA-5719/2020 filed in CP (IB)-1155(ND)/2019 by the Applicant under Section 33(2) of the IBC, 2016, for initiation of the Liquidation

Proceedings against the Corporate Debtor viz., M/s. Vardaan Contracts Private Limited  
is **allowed**.

10. The Order is pronounced through video conferencing

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**(NARENDER KUMAR BHOLA)**

MEMBER (TECHNICAL)

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**(CH. MOHD SHARIEF TARIQ)**

MEMBER (JUDICIAL)