



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
ALLAHABAD BENCH, PRAYAGRAJ**

IA No.458/2024 & IA No.123 of 2025 IN C.P. (IB) No.89/ALD/2022

(An Application under Section 12(2) and Rule 11 of the NCLT Rules, 2016)

IN THE MATTER OF:

Mr. Pawan Kumar Agrawal,
Resolution Professional of Diversification
Agriculture Producers Company Limited
40/139, Second Floor, CR Park
New Delhi-110019
Email:-irp@ppglegal.com

...Applicant/Resolution Professional

VERSUS

Samunnati Financial Intermediation & Services Pvt. Ltd.
Baid Hi Tech Park, 8th Floor, No.129 B,
East Coast Road, Thiruvananthapuram,
Chennai, Tamil Nadu, India- 600041
Email:- legai@samunnati.com

...Respondent

AND IN THE MATTER OF:

Mr. Pawan Kumar Agrawal,
Resolution Professional of Diversification
Agriculture Producers Company Limited

...Applicant/Resolution Professional

VERSUS

Samunnati Financial Intermediation & Services Private Limited

.....Respondent

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IA NO.458/2024 & IA NO.123 of 2025 IN C.P. (IB) NO.89/ALD/2022

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

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AND IN THE MATTER OF:

Global New Energies & Technologies

Working Office Address At:

3/12, 1st Floor, Raj Kutir, 1/12, Vijay Khand,
Near Mithaiwala Crossing, Gomti Nagar,
Lucknow(U.P.) India-226010

Registered Office:

A-902, Saraswati Riverview Apartments,
Gomti Nagar Extension, Gomti Nagar,
Lucknow (UP), India-226010

...Operational Creditor

VERSUS

Diversification Agriculture Producers Company Limited

Address At:

3/26216, Janakpur Nagar, Khanalampura,
Saharanpur-247001

...Corporate Debtor

Order Pronounced on 10.06.2025

Coram:

Mr. Praveen Gupta	:	<i>Member (Judicial)</i>
Mr. Ashish Verma	:	<i>Member (Technical)</i>

Appearances:

Sh. Rohit Dubey, Adv.	:	<i>For Applicant/ RP, Mr. Pawan Agrawal present in person</i>
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ORDER

1. Two Applications i.e. IA No. 458/2024 and IA No. 123/2025 filed by the Applicant Resolution Professional of Diversification Agriculture

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Producers Company Limited, Mr. Pawan Kumar Agrawal (hereinafter referred as the “**RP**”), have been decided by this order.

2. The first Application IA No. 458/2024 was filed u/s 12 of the Code by the Applicant RP on 12.08.2024 seeking extension 90 days beyond the CIRP period 180 days with following prayers:-

- I. *Be pleased to grant an extension in time period of the CIRP to end after 90 days from the date of the order, so that in meanwhile the Resolution Professional can issue form-G, invite and accept the resolution plans, place the resolution plans of the resolution applicants before the CoC and then submit the CoC approved resolution plan before this Hon'ble NCLT.*
- II. *Be pleased to keep the IA (I.B.C)/242/ALD/2024 in abeyance, until the CoC accepts/rejects any of the resolution plans.*
- III. *Any other relief, order or direction which this Hon'ble NCLT may deem fit and necessary.*

3. The Second Application IA No. 123/2025 has been filed on 23.01.2025 seeking exclusion of certain periods from CIRP period citing reasons of CIRP could not progress due to inaction of the Committee of Creditors (hereinafter referred as “CoC”) making following prayers:-

- A. *To consider and dispose this application as urgent along with the IA No. 458/2024, involving utmost urgency;*
- B. *To grant an order declaring exclusion of the period starting from 04.04.2024 (i.e. the 181st day of CIRP of the Corporate Debtor)*

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ending on the day on which this Hon'ble Tribunal will be pleased to pass an order extending the period of CIRP by further 90 days in IA No. 458/2024;

C. In alternative, passing an order liquidating the company by reason of the 180 days of permitted CIRP time having been completed on 03.04.2024 itself;

D. Any other suitable relief or direction which this Hon'ble Tribunal may consider appropriate in the facts and circumstances of the case. For this act of kindness, the applicant herein shall ever pray.

4. As stated in the Application that due to non-cooperation by the sole member of Committee of Creditor, the Corporate Insolvency Resolution Process (hereinafter referred as “**CIRP**”) of the Corporate Debtor Diversification Agriculture Producers Company Limited, could not progress, and hence it could not be completed within the stipulated period of 180 days as provided under the provisions of the Insolvency and Bankruptcy Code, 2106 (hereinafter referred as the “**Code**”). Therefore, the Applicant sought exclusion of certain period during which CIRP could not progress dividing such exclusion period in three parts as mentioned below:

(a) The period starting from 04.04.2024 to 28.04.2024: The CIRP period of 180 days expired on 03.4.2024. During this period, Resolution Professional followed up with the CoC and sought clarification regarding extension of CIRP period or want the Corporate Debtor to go in Liquidation.

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(b) The period starting from 29.04.2024 to 10.01.2025:

During this period, an application was filed on 29.4.2024 bearing no. IA 242 of 2024 by the Resolution Professional regarding termination of CIRP initiated against the Corporate Debtor which was later withdrawn vide order dated 10.01.2025.

Applicant has contended that this period got wasted due to the Resolution Professional pursuing the application IA(IBC)/242/ALD/2024 before this Tribunal, but this Application remained pending due to no effective hearing could take place and finally, this application has been withdrawn by the RP on 10.01.2025 after the CoC decided to complete the CIRP by taking requisite extension of 90 days as permissible u/s 12 of the Code. Pursuant to this decision of the CoC IA No. 458/2024 has been filed for extension of 90 days period beyond 180 days.

c) The period starting from 11.01.2025 to the date of grant of 90 days extension:

This period was unproductive due to the absence of any effective work, primarily because the CIRP duration exceeded the permitted 180 days without obtaining an extension. Although the resolutions for issuing Form-G and appointing valuers were approved during the 6th CoC meeting, they could not be acted upon due to the lack of an extension beyond the 180-day timeframe.

5. In support of averments made in the IA No. 123/2025 for citing the reasons justifying the exclusion of period sought from the CIRP period as discussed

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above, reliance has been placed by the Applicant RP on certain judgments passed by the Hon'ble NCLAT listed as under:-

- (i) Quinn Logistics India Pvt. Ltd v. Mack Soft Tech Pvt. Ltd and ors., dated 08.05.2018 [CA(AT) (Insolvency) No. 185 of 2018]**
- (ii) Kiran Martin Gulla, RP of Varadharaja Foods Private Limited [COMPANY APPEAL (AT)((CH)(INS) NO. 450/2023]**

6. In view of the aforesaid circumstances, RP has pleaded that the exclusion of CIRP period from expiry of 180 days till the adjudication of extension application.

ORDER AND FINDINGS

7. We have heard the Ld. counsel representing the Applicant RP and perused the materials and documents submitted on record.
8. The Corporate Debtor was admitted into CIRP vide order dated 06.10.2023 passed by this Tribunal in an application filed under section 9 of the Code by the Operational Creditor namely, Global New Energies & Technologies. From the initiation of CIRP till filing of this application, certain interim applications were filed pertaining to recalling of order of CIRP dated 06.10.2023, non-cooperation by the Ex-management in handing over of the documents and other relevant information. It is also important to note that since the commencement of CIRP, only two progress reports have been

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filed before this tribunal. The Series of Events during the CIRP Period are enumerated below in the table: -

S. No.	Series of Events	Date
1.	Initiation of CIRP	06.10.2023
2.	Form-A Public Announcement	12.10.2023
3.	IA No. 545 of 2023- Recalling of order dated 06.10.2023	19.10.2023 Dismissed v.od. 07.11.2023
4.	IA No. 578 of 2023- Report on Constitution of COC	23.10.2023 (DoF 28.10.2023)
5.	1st COC Meeting	03.11.2023
6.	I.A No. 563 of 2023 1st Progress Report	20.11.2023
7.	IA No. 591 of 2023 filed under Section 19(2) of the Code.	21.11.2023
8.	IA No. 609 of 2023 for violation of Section 14 by the Ex-Directors of the CD.	27.11.2023
9.	2nd COC Meeting	07.12.2023
10.	IA No. 669 of 2023- Replacement of IRP, Appointment of New RP.	16.12.2023 Allowed vide order dated 01.01.2024
11.	Appointment of New RP	05.01.2024

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12.	3rd COC Meeting	19.01.2024
13.	CONT. A. NO.02 of 2024 For violation of order dated 01.01.2024	29.01.2024
14.	IA No. 109 of 2024 -Recalling of order dated 06.10.2023 by the Suspended Management of the CD	06.02.2024
15.	I.A No. 134 of 2024- 2nd progress Report	10.02.2024
16.	4 th Coc Meeting	04.03.2024
17.	5th COC Meeting	28.03.2024
18.	I.A. No. 242 of 2024- Termination of CIRP	29.4.2024 (withdrawn v.o.d.10.1.2025)
20.	6th COC Meeting	15.07.2024
21.	I.A No. 458 of 2024	12.8.2024
22.	7th COC Meeting	15.01.2025
22.	I.A No.123 of 2025	23.01.2025

9. After more than one and half year, the Applicant/ RP has filed this application for seeking exclusion from 04.04.2024 till the filing of this instant application on 23.01.2025. The reasons stated by the Applicant RP for not completing the CIRP are non-cooperation by the CoC and pendency of various interlocutory applications filed by the suspended management and Ex-IRP as mentioned in the table above.

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10. The Applicant RP citing these circumstances has sought either exclusion of period from 04.04.2024 till the date from which extension of 90 days is granted as sought in application bearing no. I.A. No. 458 of 2024 or direction may be issued for the liquidation of the Corporate Debtor.
11. The Application I.A. No. 458 of 2024 for extension was earlier filed on 12.8.2024 seeking extension of 90 days from the date of the order so that during the extended period, the RP can issue Form-G, invite and accept the Resolution Plans, and place the resolution plans of the resolution applicants before the CoC and then submit the approved resolution plan before this tribunal.
12. In this case, the CIRP commenced on 6th October 2023. The timeline of the CIRP period as passed away till date is given below in the table:-

CALCULATION OF CIRP PERIOD TILL THE FILING OF EXCLUSION APPLICATION

S. No.	Event	Date	Remarks
1.	Initiation of CIRP	06.10.2023	180 days
2.	Section 12(1) -180 days Expired	03.4.2024	
3.	I.A No. 242 of 2024 termination of CIRP	29.4.2024	

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4.	I.A No. 458 of 2024	12.8.2024	Delay of 131 days
5.	Section 12(2) 180+90 Days Expiry	29.12.2024	270 days
6.	60 Days of Extension for CIRP	31.8.2024	330 days
7.	I.A No. 123 of 2025	23.01.2025	294 days (from the date of expiry of CIRP 03.04.2024)

Total 475 days has expired since the initiation of CIRP of the Corporate Debtor on 06.10.2023 till 23.01.2025.

13. Under the Code, 2016 the timeline prescribed for the completion of IBC under sub-section (1) of section 12 is 180 days. If the CIRP doesn't get complete in 180 days then resolution professional may file an application under Section 12(2) & (3) for seeking extension beyond 180 days. Proviso to section 12(3) states that corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date.
14. In the instant case, the CIRP commenced on 6th October 2023. The initial 180 days for completing the CIRP as provided in section 12 of the Code got completed on 3rd April 2024. However, the application IA No. 458 of 2024 seeking extension of the CIRP Period was filed on 12th August 202

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i.e. 130 days after the original 180-day period expired on 3rd April 2024. Furthermore, an application seeking exclusion of time was filed on 23rd January 2025, which was 294 days after the 180-day deadline on 3rd April 2024. If extension for 90-day as prayed in above application is even allowed, the total to 270 days (180 days + 90 days extension as provided u/s 12(2) of the Code) would end on 2nd July 2024. Thereafter, even if an additional 60-day extension which is permissible under the proviso of section 12(3) is also allowed taking the total duration to 330 days as permitted under Section 12, it would conclude on 31st August 2024.

15. We find from the record that till the completion of 180 days, no productive action was taken by the CoC, except RP replacement and Publication of Form-A. From 06.10.2023 till 23.01.2023, 475 days has been elapsed, and no appointment of valuer and publication of Form-G has taken place yet.
16. The Hon'ble Appellate Tribunal in the matter of ***Mr. Ravi Sankar Deverakonda Vs. Committee of Creditors of Meenakshi Energy Limited*** [\(2021\) ibclaw.in 155 NCLAT](#) held that the exercise of power by the Adjudicating Authority to extend the time period under section 12(3) of the Code in negation of statutory provision of the Code may be desirable in an exceptional/extraordinary Circumstances of a given case by

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exercising sound Judicial discretion with a view to find a suitable Resolution Plan to prevent an aberration of justice.

17. After taking into account all the facts and circumstances of the case into consideration , we find that the CIRP in this case has remain ineffective from the beginning i.e. from the date of passing of the order on 06.10.2023 and there is no cogent reason given by the RP for not taking requisite action for carrying on the CIRP as per the provision of the Code. The reasons as cited in the Application 123/2025 are not found justifiable and it only shows inaction on part of the RP as not calling the meeting CoC on regular interval for expediting the CIRP for its timely completion as well as there is also inaction on the part of the CoC for not taking any decision for expediting the process for insolvency resolution of the Corporate Debtor. The RP has even failed to proceed with the appointment of the valuer and publication of Form-G after being approved by the CoC in the 6th CoC Meeting held on 15.07.2024. Till date no publication of Form-G has been done. It is also worth to note that against the order dated 06.10.2023 for starting the CIRP against the Corporate Debtor, no appeal has been filed and rather an I.A. No. 109 of 2024 was filed by the suspended management of the Corporate Debtor for recalling of the said order and plea has been taken by the RP as a reason for the exclusion of the period of pendency of

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this Application from the CIRP period, which later in fact has also been withdrawn. Therefore, we find that this reason cited by the RP for excluding the period of pendency of such application from the CIRP period is not justifiable because RP should not be concerned with any action being taken by the suspended management of the Corporate Debtor against the CIRP order unless there is specific order for staying the CIRP, which never have been passed. Therefore, we don't find any justifiable reason for excluding any period from the CIRP period. We also find that there is no likelihood of receiving any resolution plan in near future as Form G itself has not been published so far.

18. The Hon'ble NCLAT, New Delhi in the similar scenario dismissed the appeal titled as *Sibanarayana Chhotray versus Indian Overseas Bank & Anr. bearing no. CA(AT)(Ins.) No. 887 of 2024 vide order dated 17.12.2024* filed by the Appellant against the order dated 17.4.2024 passed by the Coordinating Bench, Cuttack in I.A No. 93/CB/2024 rejecting the application for recall of order of liquidation passed on 13.12.2023. The Coordinating bench vide order dated 13.12.2023 directed for liquidation of the Corporate Debtor due to non-publication of Form-G and expiry of 365 days since the initiation of CIRP. The relevant extract of the order is reproduced below:-

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“10....The present is a case where in CIRP no substantial progress has been made nor completion of Resolution Process was in sight. The most important fact to be considered is that the application which was filed by the Appellant was for recall of the order dated 13.12.2023 passed by the Adjudicating Authority refusing exclusion of the period and directing the liquidation of the corporate debtor. In paragraphs 12 while directing for liquidation, following has been observed by the Adjudicating Authority:

“12. From the above citations it is clear that the CIRP must be completed within a period of 330 days from the date of commencement of Insolvency, in exceptional cases beyond 330 days short period can be extended for approval of resolution plan. In our case there is neither any resolution plan is pending, not even published form 'G'. In our case the applicant has not made out 'exceptional circumstances' for an extension of beyond 330 days. In this case till the date of filing this application already 365 days expired. In order to grant exclusion or extension beyond 330 days, the RP or the COC is required to show that there is a high prospect that he may receive 12 a resolution plan. No such positive, viable, prospective were placed before us. Thus, as to the facts of the present case the applicant has not substantiated any exceptional circumstances to order exclusion of period from CIRP. This application to exclude 252 days is not considered and that the exclusion application is dismissed and in consequence, this Authority in terms of section 33(1)(a) of IBC 2016 we inclined to order liquidation. In the result the M/s Srabani Constructions Pvt. Ltd, corporate debtor is ordered to be liquidated.”

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11. No Appeal was filed by the Appellant challenging the order of liquidation. He filed an application recall of the said order. The ground for recall of the order by the Adjudicating Authority is very limited which is now settled by judgment of the Hon'ble Supreme Court dated 12.02.2024 in Civil Appeal Nos.7590-7591 of 2023- "Greater Noida Industrial Development Authority vs. Prabhjit Singh Soni & Anr.". The Hon'ble Supreme Court referring to five Members' Judgment of this Tribunal in "Union Bank of India vs. Dinkar T. Vekatasubramanian & Ors." has noted and laid down that the grounds on which a recall can be ordered.

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14. As observed above, we do not find any error committed by the Adjudicating Authority rejecting IA (IB) No.93/CB/2024 filed by the Appellant, hence, the liquidation order dated 13.12.2023 remains unaffected. We further are of the view that the Appellant is at liberty to file objection to the auction already undertaken by the liquidator before the Adjudicating Authority which may be considered while considering the application for confirmation of the auction. Appellant is free to raise all issues regarding the auction including inappropriate valuation of the assets as is being contended before us in these Appeals. The order dated 21.11.2024 which is challenged in the Company Appeal (AT) (Insolvency) No.2246 of 2024 also does not require any interference since the said application IA (IB) No.301/CB/2024 filed by the Appellant is still pending and fixed for 19.12.2024. As observed above, Appellant is at liberty to raise objections regarding auction conducted by the liquidator in accordance with law.

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15. In view of the foregoing discussions, we do not find any good ground to interfere with the orders impugned in these Appeals, giving liberty to the Appellant to raise objection with respect to auction already held by the liquidator which are yet to be confirmed by the Adjudicating Authority, we dispose of both the Appeals accordingly.”

19. In the present case also, we find that total 613 days have passed till the passing of this order, which is much beyond the permissible time period of 330 days as mandated for completion of CIRP under the Code and the RP has failed to bring out any special circumstance beyond his control which prevented him to complete the CIRP within 330 days in justification of his prayer made in clause B of the Application 123/2025 for exclusion of the period from 181th day of CIRP till date. Therefore, we are not inclined to grant relief sought in clause B of the prayer, and hence the same is rejected. Accordingly, no extension of 90 days would be required to be granted as prayed in IA No.458/2024 as period much beyond 330 days has already been expired.
20. As exclusion of time period from CIRP period and also extension of CIRP period has been rejected by us as discussed in foregoing paras of the order, the natural corollary would be that the Corporate Debtor has to go under liquidation in terms of the provision of section 33(1) of the Code. Therefore, we are inclined to allow the prayer made in clause C of the

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Application 123/2025 and passing an order under section 33(1) of the Code directing liquidation of the Corporate Debtor namely, **DIVERSIFICATION AGRICULTURE PRODUCER COMPANY LIMITED.**

21. We, therefore, pass the present order of liquidation u/s 33(1) initiating the liquidation process of the Corporate Debtor. As per section 34(4)(a), the Adjudicating Authority may recommend an insolvency professional other than the RP/IRP to be appointed as Liquidator in the case where liquidation is ordered. In the light of the liquidation order passed by us as discussed in previous para, we appoint Mr. Dev Vrat Rana, an insolvency professional with registration no. IBBI/IPA-001/IP/P02567/2021-2022/13936 R/o SHOP NO. 5, B. S. M. TIRAHA, ROORKEE, HARI SINGH MARKET, Hardwar, Uttarakhand, 247667 with email id cadevrana@gmail.com has been considered to be appointed as Liquidator. The consent form of Applicant/RP in Form AA along with Authorization for Assignment from Insolvency Professional Agency (IPA) to act as liquidator shall be filed before this tribunal within 02 days from the passing of this order. The Law Research Associate of this Tribunal, Ms. Ankita Sharma, has checked the credentials of Mr. Dev Vrat Rana and found that there are no disciplinary proceedings pending against the proposed Resolution Professional and also

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there is nothing adverse against him. Upon verification from the website of IBBI, it is found that IRP holds valid authorization till 31-12-2025. After considering these details, we appoint Mr. Dev Vrat Rana, Registration No. IBBI/IPA-001/IP/P02567/2021-2022/13936 as Liquidator in this matter.

22. The Liquidator may as per Regulation 32A (4) of IBBI (Liquidation Process) Regulations, 2016, first consider selling the assets of the Corporate Debtor under clause (e) of Regulation 32 as going concern keeping in view the provision of Regulation 32A and thereafter, if it is not successful, the sale of assets may be carried out by any of the methods as given in Regulation 32 under consultation with Committee of Creditors / Stakeholders Consultation Committee.
23. The Liquidator shall initiate the Liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
24. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in Liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed timely of the Liquidation order.

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25. All the powers of the Board of Directors, and of key managerial personnel, shall cease to exist in accordance with Section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
26. The personnel of the Corporate Debtor are directed to extend all assistance and cooperation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.
27. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Code shall commence. 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 the 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.
28. 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.

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29. The Liquidator shall manage and govern the affairs of the Corporate Debtor and shall resort to powers and duties in terms of Section 35(1) of the Code.
30. The Liquidator shall exercise powers and duties to deal with all financial matters of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code and to investigate the financial affairs of the Corporate Debtor to determine undervalued or preferential transactions if any carried out by the Corporate Debtor and take necessary action in accordance with the provisions of the Code.
31. The Liquidator during the process of carrying out the Liquidation, shall also follow up all the applications pending for disposal before this adjudicating authority or any other authority/court including taking of steps for initiating the process for recovery of dues of the Corporate Debtor if any, as per law.
32. 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;
33. The Liquidator and the Registry are hereby directed to send a copy of this order within 3 days from the date of this order to the Registrar of

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Companies, Uttarakhand. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.

34. The Registry is directed to send copies of the order through e-mail forthwith to all the parties and their Ld. Counsels and to the Liquidator appointed under this order, for information and for taking necessary steps.
35. The Registry is further directed to send a copy of this order to the IBBI for their record.
36. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
37. In view of passing of aforesaid order, **IA No.123/2025** stands disposed of.
38. **I.A No. 458 of 2024** filed the Applicant Resolution Professional stands infructuous, and hence dismissed in the light of this order directing liquidation of the Corporate Debtor.
39. Ordered Accordingly.

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(Ashish Verma)
Member (Technical)

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(Praveen Gupta)
Member (Judicial)

Date: 10.06.2025