

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

**IA No.27/ALD/2023 IN CP (IB) NO.84/ALD/2022**

*In the matter of*

*An application under Section 33(2) & Section 34(1) read with  
Section 60(5) of the Insolvency and Bankruptcy Code, 2016*

*In the matter of:*

**Mr. Vimal Kumar**

Resolution Professional of Ansh Energy Solutions Pvt. Ltd.  
(Regn. No. IBBI/IPS-002/IP-00995/2020-2021/13236)

**Office at:**

G-10, 2<sup>nd</sup> Floor, Sector 63,  
Noida, Gautam Budh Nagar,  
Uttar Pradesh-201301

**.....Applicant/Resolution Professional**

**Versus**

**1. Members of Committee of Creditors  
of Ansh Energy Solutions Pvt. Ltd.,** consisting of

**i) Insight Collaborative Logistics Pvt. Ltd.**

1101, Tower A, Advant Navis Business Park,  
Sector 142, Noida Expressway, Noida, Uttar Pradesh- 201304

**.....Respondent No. 1**

**(ii) M/s. Revti Enterprises**

1214, New Shivpuri, Hapur,  
Uttar Pradesh-245101

**.....Respondent No.2**

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**iii) Digital Marketing Systems Pvt. Ltd.**

Plot No. 344, Scheme No. 78, Part 1,  
Phase 2 Industrial, Devas Naka,  
Indore, Madhya Pradesh-452010

**.....Respondent No.3**

**(iv) M/s Neer**

611, I-Thum, Plot No. A-40, Sector 62,  
Noida, Uttar Pradesh-201301

**.....Respondent No.4**

**2. Dr. Anubhav Gupta**

(Suspended Director Corporate Debtor)

S/o Late Sh. Onkar Nath Gupta

R/o E-19, Sector-7, Raj Nagar,  
Ghaziabad, Uttar Pradesh-201001

**.....Respondent No.5**

**3. Mrs. Shubhangi Gupta**

(Suspended Director Corporate Debtor)

W/o Dr. Anubhav Gupta

R/o E-19, Sector-7, Raj Nagar,  
Ghaziabad, Uttar Pradesh-201001

**.....Respondent No.6**

Order pronounced on: 14<sup>th</sup> December, 2023

**CORAM:**

Mr. Praveen Gupta.

: Member (Judicial)

Mr. Ashish Verma

: Member (Technical)

**Appearances:**

Sh. Siddharth Shankar, with : For the Applicant/RP Mr. Vimal  
Sh. Sharique Ajmal, Advs. Kumar present in person

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## **ORDER**

1. The present application (IA No.27/2023) has been filed by the Resolution Professional (RP) of the Corporate Debtor seeking directions for initiating liquidation proceedings of the Corporate Debtor in terms of Sections 33(2) & 34(1) read with Section 60(5) of the Code and to appoint the applicant Sh. Vimal Kumar, (Registration no. IBBI/IPA-002/IP-N00995/2020-2021/13236), Resolution Professional (RP) as the Liquidator of the Corporate Debtor, and further seeking directions to approve the Liquidator fee to be paid.
2. Briefly stated facts of the case are that in pursuance of an application under Section 9 of the Code with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (in short "the Regulations, 2016"), the application was admitted vide order dated 21.01.2021 passed by this Tribunal and Sh. Vimal Kumar has been appointed an Interim Resolution Professional (IRP) was appointed to conduct the CIRP of the Corporate Debtor.
3. In the first meeting of COC held on 18/02/2021, IRP has been confirmed to be appointed as RP but members of COC in subsequent meeting held on 25.02.2021 had refused to

fix the fee and remunerations, payable to the RP and other professional advisors, in terms of Regulation 34 of the Regulations, 2016. However, an amount of Rs. 2,10,000/-, was duly paid by the COC, as against the fees of the interim resolution professional and expenses, in terms of Regulation 33 of the Regulations, 2016.

4. The Application bearing IA No. 122/2021 was filed with a prayer to confirm the appointment of the 'IRP' as 'RP' and further to fix the fees and remunerations of RP for carrying out the CIRP process and it was disposed off, by this bench vide order dated 08/09/2021 with a direction to the RP to file a separate Application for fixing the fee of the RP and other professional and payment thereof. Subsequently, the RP had filed another Application bearing 'IA No. 305/2021' for fixing the fee of the RP and other professionals, notice of which was issued on 27.10.2021. This IA has been disposed off vide order dated 21.11.2023 directing the CoC members to pay Rs.1,55,000/- to RP, which will be contributed according to the percentage of the share of each member being part of CoC.

5. Application IA No.238/2021 was filed for exclusion of time period from CIRP period by the RP, for the period of 153 days i.e. from 15/03/2021 to 06/08/2021 due to not being able to proceed with the CIRP due to non-availability of funds and also due to lockdown and curfew imposed by the Central/State Government on account of Covid-19 pandemic, and the said application was allowed by this bench vide order dated 06/08/2021.
6. During the pendency of the said Application being IA No.305/2021, the RP was unable to proceed with CIRP of Corporate Debtor due to lack of funds as-well-as various decisions by COC as required in terms of Code and Regulations, the RP filed another Application being IA No.375/2022 seeking exclusion of period of 137 days i.e. from 07.08.2021 to 21.12.2021 from CIRP period, on the ground of judicial intervention, enabling the RP to effectively complete the CIRP of the corporate debtor. The said Application being IA No.375/2022 was allowed by this bench vide order dated 04/04/2022.
7. The Application being IA No.375/2021 was pending adjudication for a period of 104 days i.e. from 22/12/2021

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to 03/04/2022, the Resolution Professional filed another Application being IA No.124/2022, for further exclusion of 104 days, which was allowed by this bench vide order dated 20/04/2022.

8. After exclusion of periods of 394 days (153+137+104) from CIRP period, initial One Hundred and Eighty (180) days expired on 21/08/2022. Therefore, the RP, at the instance of COC had moved an Application being IA No.251/2022, seeking extension of ninety (90) days beyond One Hundred and Eighty (180) days, which was duly allowed by this bench vide Order dated 22/08/2022.
9. In pursuance of the admission order, and the decision of COC, the public announcement inviting 'expression of interest for resolution plan' (EOI) was made in FORM-G on 11.10.2022 in two newspapers namely 'Financial Express' (English version) (Delhi/NCR edition) and 'Jansatta' (Hindi version) (Delhi/NCR edition). The IRP received some claims in response to the publications and accordingly, a Committee of Creditors (CoC) was also constituted. In one of the subsequent meetings, the viability of inviting 'expression of Interest for Resolution Plan' through publishing 'Form-G'

was discussed. All four (4) COC members with 100% voting rights voted in favor of inviting 'expression of Interest for Resolution Plan' through publishing 'Form-G'. Based on 'Form-G', two (2) Expression of Interest (EOIs) were received from Prospective Resolution Applicants (PRAs).

10. After obtaining Transactional Audit Report, the Resolution Professional had presented the same before the COC, in its 5th Meeting held on 4th August 2022. Thereafter, taking note of the transactions and on recommendation of COC members, the Resolution Professional has preferred three avoidance Applications as per following details:

<b>S no.</b>	<b>Application</b>	<b>Nature of Application</b>	<b>Under Section</b>
1	IA No. 258/2022	Avoidance Application	Section 43 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016.
2	IA No. 259/2022	Extortionate Credit Transaction	Section 25(2)(j) & Section 50 read with 60(5) of the Insolvency and Bankruptcy Code, 2016.

3	IA No. 259/2022	Fraudulent Transaction	Section 25(2)(j) & Section 49 and 66 read with 60(5) of the Insolvency and Bankruptcy Code, 2016.
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11. The extended period of Ninety (90) days expired on 19.11.2022 and since, there was scarcity of time to process the Proposed Resolution Plan, if received from the said two (2) PRAs, another application bearing IA No.407/2022, seeking extension of Sixty (60) days beyond Two Hundred and Seventy (270) days, was further moved by the RP, in terms of decision taken in 7<sup>th</sup> COC meeting, which was duly allowed by this bench vide Order dated 14/11/2022.
12. Both the PRAs then proceeded to have their EOIs withdrawn and requested for refund of their security deposits vide their emails dated 22/11/2022 & 14/12/2022.
13. As per Item No. 6 at the 8<sup>th</sup> meeting of the Committee of Creditors held on 9<sup>th</sup> December, 2023, vide Item No. 6, the issue was considered for deciding further course of actions and to consider options to proceed further in the absence of any Resolution Plan pursuant to the publication of 'Form-G'

and issuance of RFRP. It was discussed during the course of this meeting of the COC that two PRAs have submitted their expression of interest but none of them have submitted the Resolution Plan and there are three avoidance applications already filed by RP against the Ex-management/ Ex-director of the Corporate Debtor and the same are already pending for consideration before the Adjudicating Authority. Further during the course of meeting, the RP had apprised the COC that in terms of Section 12 of the Code, CIRP cannot prolong for indefinite period and the maximum prescribed period of 330 days is already expiring on 8<sup>th</sup> January, 2023, therefore, COC is required to take a decision in the absence of Resolution Plan, to take further course of action as per the provisions of IBC, 2016.

14. Ld. Counsel representing the applicant-RP submits that the COC did not vote and abstained from voting. It is important to note that the COC did not take any decision for liquidation of the Corporate Debtor and as such has also not nominated the name of either of the applicant-RP or any other RP to act as Liquidator.

15. Ld. Counsel further submits that this application has been necessitated in view of the fact that the mandatory period of CIRP i.e. 330 days has already expired and there being no Resolution Plan received so far, there is no option left with the Resolution Professional but to move the present application under Section 33 sub-Section (2) of the IBC, 2016 for initiating liquidating process against the Corporate Debtor and it is also specifically mentioned that the COC has abstained from voting as mentioned at Page 25 and 26 of the present application.
16. The Resolution Professional gave notice for 8<sup>th</sup> COC meeting, scheduled for 9.12.2022, which was subsequently conducted and was attended by two (2) of COC members namely (i) Insight Collaborative Logistics Pvt. Ltd (ii) M/s Neer. The agenda 6 of the 8<sup>th</sup> CoC meeting was as under:

***"ITEM NO.6***

***FURTHER COURSE OF ACTION AND TO CONSIDER  
OPTIONS IN ABSENCE OF ANY RESOLUTION PLAN,  
PURSUANT TO PUBLICATION OF FORM-G AND  
ISSUANCE OF RFRP AND EM."***

*Chairman informed that though two PRAs have submitted EOIs but none of them have submitted the resolution plan.*

*After discussion with members of COC, COC was of the view that the purpose shall be better served if the CIR process continues till the outcome of 3 avoidance applications filed by RP against the ex-management/ex-directors of Corporate Debtor with Adjudicating Authority.*

*RP apprised the COC that in terms of Section 12 of the IBC Code, 2016, CIR Process cannot prolong for indefinite period and is required to be completed within maximum period of 330 days which is expiring on 18.1.2023 in the present case therefore COC is required to take a decision in absence of resolution plan. COC decided to put the agenda for voting which will be organized by the office of RP.*

***Committee of Creditors took notice of the same and permitted RP to conduct E voting.***

17. Agenda put to e vote were as follows:

- a) Recommend for the Liquidation of the Ansh Energy Solutions Pvt. Ltd.
- b) Waiting for the outcome of 3 avoidance applications filed against ex-directors of CD.

c) Recovery suits filing against Kay Dee Engineers and Cubic Engineers who owe Rs. 51.00 lacs to CD.

**Result of E-voting is as under:-**

Report Generation Date and Time: - 11-Jan-2023 16:25:22

Name of Entry: - Ansh Energy Solutions Private Limited

Name of Scrutinizer: - Vimal Kumar

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Voting Start Date and Time: - 17-Dec-2022 12:00:00

Voting End Date and Time: - 19-Dec-2022 12:00:00

Voting Finalization Date and Time: - 11-Jan-2023 16:25:22

Resolution	Not Voted (Absent)		
	No of Not Voted	Voting of Share	% of Absent
1. Recommend for liquidation of the CD	4	100	100
2. Not to recommend liquidation and wait for the outcome of 3 Avoidance applications filed with AA against ex-directors of the CD	4	100	100
3. Filing of suit for Recovery against M/s Kay Dee Engineers and Cubic Engineers who owe Rs.51.00 lacs to the CD.	4	100	100

18. The maximum period of 330 days for CIR process gets completed on 18/01/2023. No further time period is available for re-publishing 'Form-G' for inviting the Expression of Interest for resolution plan. The COC in its 8<sup>th</sup> meeting has not taken the decision for liquidation and is of the view to continue the CIRP, till the outcome of 3 avoidance applications as mentioned in para 10. However,

same is not feasible due to expiry of maximum period of 330 days, in terms of Section 12 of the Code. Therefore, the Resolution Professional has no other option but to recommend for the liquidation of the Corporate Debtor namely Ansh Energy Solutions Private Limited.

19. As the COC has not taken any decision for liquidation of the Corporate Debtor namely Ansh Energy Solutions Private Limited, it has not nominated the name of either the Applicant/Resolution Professional or any other IP to act as Liquidator of the Corporate Debtor. During the course of the hearing of this IA on 21.11.2023, the Applicant/Resolution Professional agreed to act as Liquidator of the Corporate Debtor. The consent form of Applicant/RP in Form AA alongwith Authorisation for Assignment from Insolvency Professional Agency (IPA) to act as liquidator have also been annexed as **ANNEXURE-A14 (COLLY)** with this IA.

20. As the CoC did not approve the resolution for initiating the liquidation proceeding for the Corporate Debtor, the RP in present application filed for initiating liquidation proceeding of the Corporate Debtor, has made members of CoC as respondents. In the first hearing held on 31.01.2023 in

respect of this IA, the authorized representative, Sh. Gursharan Singh Gill appeared on behalf of Respondent No.1, which is one of the CoC Members and also the Operational Creditor, M/s Insight Collaborative Logistics Pvt. Ltd. that initiated CIRP in the present case. He accepted notice on behalf of CoC Members and sought two weeks time to file reply. However, despite giving several opportunities, no reply has been filed on behalf of CoC Members. Therefore, this IA has been finally heard on 21.11.2023 and decided on merit.

21. We have perused the record. We are of the considered opinion that the mandatory period of 330 days has already expired and no Resolution Plans so far have been received. Therefore, it will only be appropriate, if the liquidation process is initiated by passing the liquidation order. The three avoidance applications may continue. We, therefore, pass the present order of liquidation initiating the liquidation process. Suitability of the present RP, Shri Vimal Kumar has been considered for appointment as Liquidator in this case after considering his consent as discussed in Para 19. The Law Research Associate of this Tribunal, Mr.

Sarim Husain, has checked the credentials of Mr. Vimal Kumar, and found that there are no disciplinary proceedings pending against the proposed Resolution Professional and also there is nothing adverse against him. Upon verification from the website of IBBI, it is found that IRP holds valid authorization till 24.08.2024. After considering these details, we appoint Mr. Vimal Kumar, Registration No.IBBI/IPA-002/IP00995/2020-2021/13236 as Liquidator. Accordingly, we appoint the Resolution Professional Sri Vimal Kumar to act as Liquidator. It is also directed that the Liquidator shall continue to pursue the three avoidance applications already filed by the RP as referred to above.

22. Ordered Accordingly.

23. IA No.27/ALD/2023 disposed off.

*-Sd-*

**(Ashish Verma)**  
**Member (Technical)**

*-Sd-*

**(Praveen Gupta)**  
**Member (Judicial)**

*14<sup>th</sup> December, 2023*

*Sarim Husain*  
*(LRA)*

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