

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

IA 98 of 2020 in CP(IB) 509/NCLT/AHM/2018

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)

Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 29.06.2020**

Name of the Company:

Vikash G Jain RP For Orient Spa Ltd

V/s

Orient Spa & Ors

Section:

Section 33(2) & 34(1) IBC, 2016

ORDER

Learned Counsel Ms. Pragati Tiwari appeared for the Applicant/RP.

The Order is pronounced in Open Court. Detail order is recorded vide separate sheet.


**(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)**


**(MADAN B GOSAVI)
MEMBER (JUDICIAL)**

Dated this the 29th day of June, 2020.

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
COURT 1**

I.A. No. 98 of 2020 in

C.P. (I.B.) No.509/10/NCLT/AHM/2018

Coram: **Hon'ble Mr. Madan Bhalachandra Gosavi, Member (J)**
 Hon'ble Mr. Virendra Kumar Gupta, Member (T)

In the matter of:

Mr. Vikash G Jain "Resolution Professional" of:

M/s. Orient Spa Ltd.
204 Wall Street-1,
Opp. Orient Club
Near Gujarat College, Ellis Bridge
Ahmedabad 380006

..... Applicant/ RP

Versus

1. M/s. Oriewnt Spa Ltd & Ors.

Having registered address at
Cambay Squire, Plot No. X-24,
GIDC Electronics Estate,
Sector 25 Gandhinagar-382044

..... Respondent-1

2. Small Industries Development Bank of India

Having address at:
Navjivan Amrit Jayanti Bhavan,
1st Floor, Behind Gujarat Vidyapeeth,
PB No. 10, PO, Navjivan,
Ahmedabad, Gujarat 380014

..... Respondent-2

3. Mrs. Neelu Sanjay Gupta

Having address at:
B-202, Dhananjay Tower, 100 Ft, Road
Satellite, Ahmedabad 380015

..... Respondent-3



4. Ms. Sanjana Gupta

Having address at:

B-202, Dhananjay Tower, 100 Ft, Road
Satellite, Ahmedabad 380015

..... **Respondent-4**

5. Mr. Sanjay Gupta

B-202, Dhananjay Tower, 100 Ft, Road
Satellite, Ahmedabad 380015

..... **Respondent-5**

6. Mr. Omprakash Verma

Having address at:

X-22/23/24 Cambay Square
Sector 25, Gandhinagar 382044

..... **Respondent-6**

7. Mr. Pravesh Shah

Having address at:

X-22/23/24 Cambay Square
Electronic Estate, GIDC, Sector 25
Gandhinagar 382044

..... **Respondent-7**

Appearance:

Mr. Hiral U Mehta and Ms. Pragati Tiwari Advocates for the Applicant/RP.

None for the Respondents.

(Through Video Conferencing)

Order delivered on 29/06 / 2020

[Per Se: Shri Virendra Kumar Gupta, Member (Technical)]

1. An Application u/s. 33(1)(2) and r.w. 34 of Insolvency and Bankruptcy Code, 2016 for initiation of Liquidation proceedings in respect of Corporate Person, namely, **M/s. Orient Spa Ltd & Ors.**
2. The facts, in brief, are that an Application u/s 10 of IBC, 2016 had been filed by the Corporate Person for initiation of CIRP. The Corporate Person was admitted into CIRP vide order dated 12.04.2019. IRP was appointed who made public announcement. IRP was replaced by COC in its first meeting

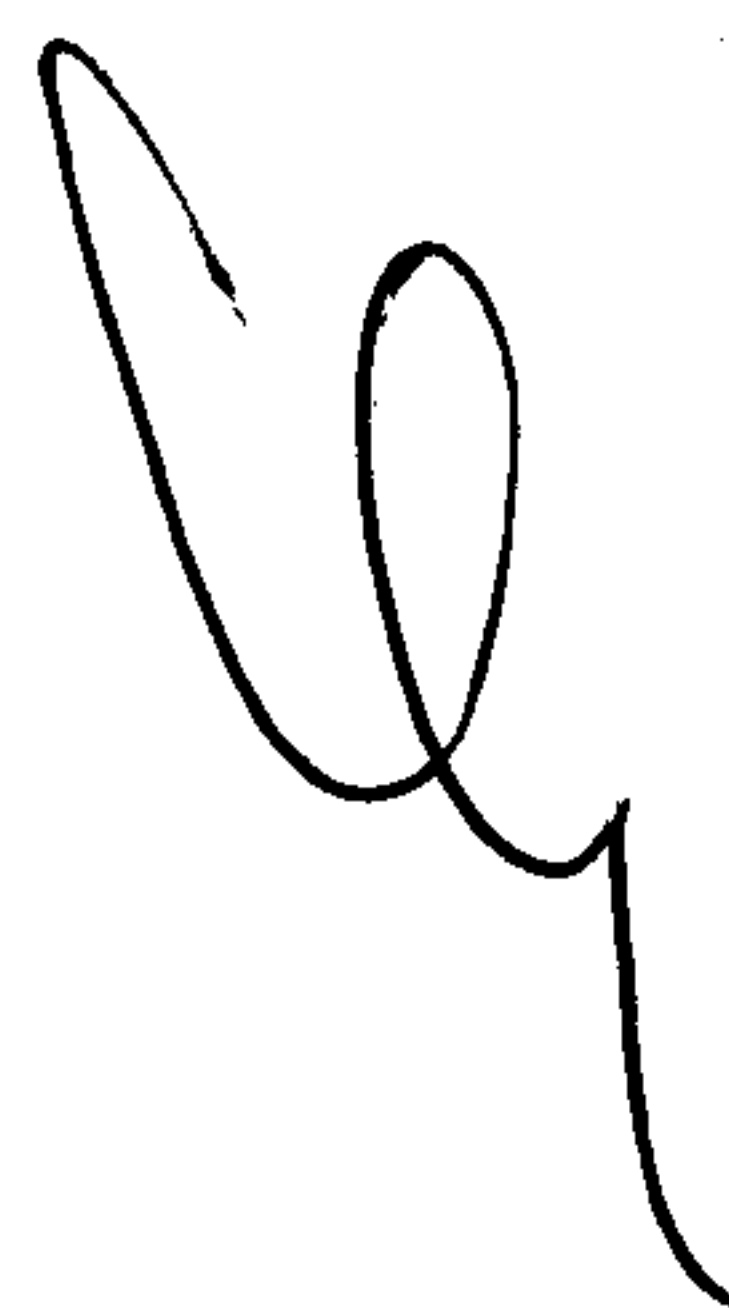
dated 17.06.2019. Subsequently, RP published an invitation of Expression of Interest (EOI) in Form G on 19.08.2019.

3. The extension of CIRP of 90 days had been given by Adjudicating Authority on 14.11.2019 for the reason that an Application showing interest had been received. However, such Application was not carried forward. Subsequently, COC in its 6th meeting dated 01.01.2020 recommended for liquidation of the Corporate Person and also resolved to appoint Resolution Professional as Liquidator.
4. Learned Counsels, Mr. Hiral U Mehta and Ms. Pragati Tiwari, appeared for the Applicant/RP and narrated basic facts as stated above. In addition to these facts, it was conveyed that valuers were also appointed in CIRP. Information Memorandum ('IM') based on Evaluation Matrix and such valuation had been prepared. Audited Financial Statements were also placed before the COC from time to time. Although, an application had been received, however, no EOI was received. Since, there was no hope of revival and re-starting of the Corporate Person and considering the fact that on the date of commencement of CIRP, the Corporate Person was not a going concern nor there were any employees, hence, COC opted for liquidation of the Corporate Person by 100% voting. Accordingly Learned Counsel Mr. Hiral U Mehta submitted that order of liquidation of the Corporate Person could be passed as per the provisions of law.
5. We have considered the submissions made on behalf of the Applicant and material on record. It is noted that no Expression of Interest has been received in spite of extension of initiation of CIRP period. The Corporate Person is not a going concern. The Corporate Person has itself opted for initiation of Bankruptcy proceedings as per the provisions of law which by itself

indicates that Corporate Person is not in a position to run the Company. In these circumstances and considering the applicable legal provisions, we are of the considered view that order of liquidation is required to be passed in the present case. Accordingly we order as under:

ORDER

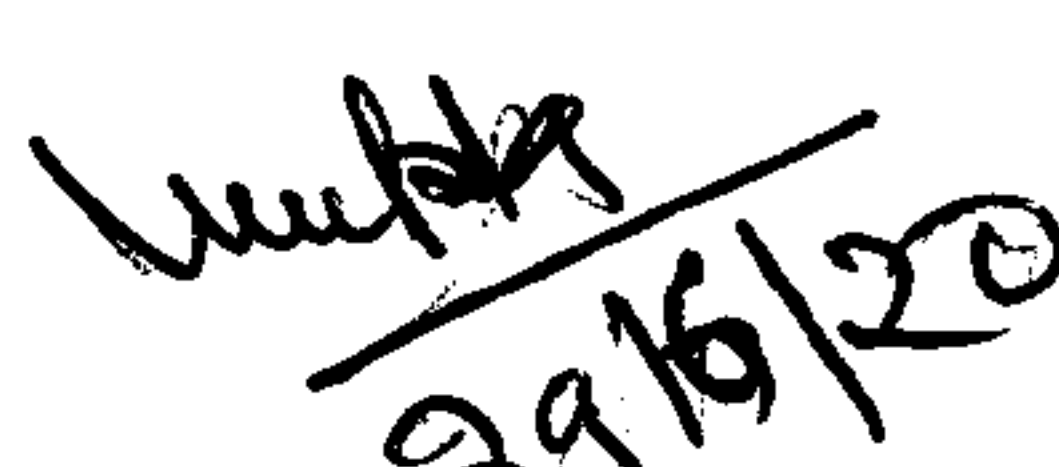
6. We hereby order that Corporate Person stands liquidated w.e.f the date of this order.
7. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, Mr. Vikash G Jain (Registration No. IBBI/IPA-001/IP-P00354/2017-18/10612) **is hereby appointed as a Liquidator** of the company, **M/s. Orient Spa Ltd. & Ors.**, which has been duly approved by CoC and COC in its 6th meeting dated 01.01.2020 recommended to appoint Resolution Professional as Liquidator.
8. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Person, hereafter, cease to exist. All these powers henceforth, vest with the Liquidator.
9. The personnel of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Person.
10. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

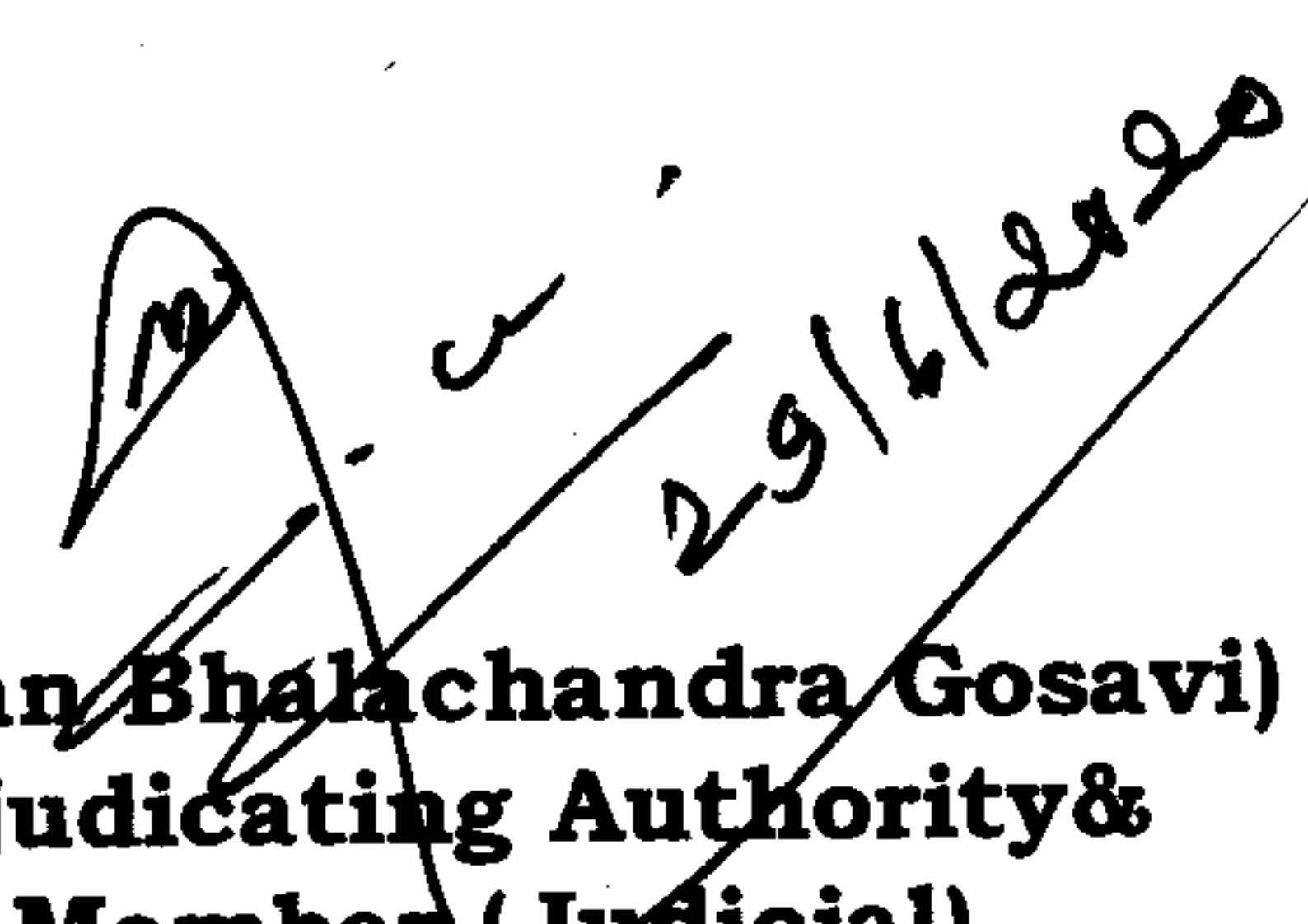


11. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Person save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the Corporate Person with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.
12. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.
13. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.
14. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Person, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.
15. This liquidation order shall be a deemed to be 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.
16. The Moratorium declared vide order dated 12.04.2018 on CP (IB) No.509/10/NCLT/AHM/2018, henceforth cease to exist.
17. The present I.A. No. 98 of 2020 is allowed by directing the appointed Liquidator to initiate and complete liquidation

process as envisaged under Chapter - III of the Code by following the liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

18. Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the Registry to the Applicant, Corporate Person, Registrar of the Company and Resolution Professional cum Liquidator by Speed-post within one week from this order.
19. Accordingly, the present I.A. No.98 of 2020 stands disposed of in terms indicated above.


(Virendra Kumar Gupta)
Adjudicating Authority &
Member (Technical)


(Madan Bhalachandra Gosavi)
Adjudicating Authority &
Member (Judicial)