

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI

I.A. No. 1511/2021
Connected With IB-2217/(ND)/2019

Section: Under Section 33(2) of the Insolvency and Bankruptcy Code,
Read with Regulations of IBBI (Liquidation Process) Regulations,
2016.

In the matter of:

INDIABULLS CONSUMER FINANCE LTD.

Registered office at: M-62 & 63, First Floor,
Connaught Place,
New Delhi- 110001

...Financial Creditor

Versus

M/s GAUTAM TECHAGRO INDIA PVT. LTD.

Registered office at:
357, Tarun Enclave,
Pitampura, New Delhi- 110034

...Corporate Debtor

In the matter:

Mr. SANJU KUMAR

Resolution Professional of M/s Gautam Techagro India Pvt. Ltd.
Residence at: 602, Dhaura Giri,
Kaushambi, Ghaziabad,
Uttar Pradesh- 201010

... Applicant

Coram:

SH. P.S.N. PRASAD, Hon'ble Member (Judicial)

DR. BINOD KUMAR SINHA, Hon'ble Member (Technical)

For Applicant: Mr. Sanjiv Kakra and Ms. Vaishali Kakra, Advocates

IA/1511/2021, Connected with IB-2217/(ND)/2019
Indiabulls Consumer Finance Ltd. v/s Gautam Techagro India Pvt. Ltd.

ORDER

Per P.S.N. PRASAD, MEMBER (JUDICIAL)

Date:14.12.2021

1. This is an application filed by the Resolution Professional, 'Mr. Sanju Kumar' under Section 33 (2) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for order of liquidation of the Corporate Debtor, 'M/s Gautam Techagro India Pvt. Ltd.'.
2. The facts in brief are that an application for Corporate Insolvency Resolution Process was preferred by Financial Creditor, Indiabulls Consumer Finance Ltd., under Section 7 of the IBC, 2016 on account of default. The Adjudicating Authority vide order dated 31.01.2020 in C.P. No. IB-2217/(ND)/2019 admitted the said application and appointed Mr. Sunil Prakash, as the Interim Resolution Professional of the Corporate Debtor.
3. The IRP issued a Public Announcement dated 05.03.2020 under Section 13 and 15 of the Insolvency and Bankruptcy Code, 2016, in daily newspaper 'Jansatta' in Hindi and

'Financial Express' in English in Prescribed Form A, and invited claims from the creditors of the Corporate Debtor. On receiving the claims, the IRP constituted the CoC consisting of financial creditors namely; HDFC Bank Ltd and Indiabulls Consumer Finance Ltd. of the Corporate Debtor.

4. The Applicant submitted that in the meeting of the COC held on 13.08.2020 the issue of appointment of IRP as RP was taken up and called for voting. The members of the COC by a majority of 100% voted against retaining the IRP as RP and proposed name of the Applicant Mr. Sanju Kumar for appointment of Resolution Professional. Further, an application u/s 22(3)(b) of IB Code, 2016 seeking replacement of RP was duly allowed by the Adjudicating Authority vide order dated 05.10.2020.

5. The Applicant submitted that the 2nd COC meeting was held on 17.02.2021, and it was observed that the Corporate Debtor is asset less due to non-availability of any assets in its name. Hence, the agenda for recommending the Corporate Debtor for Liquidation under section 33 of IB Code, 2016 was put to vote.

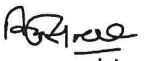
The applicant further submitted that the members of the COC

by majority vote of 99.56% resolved to recommend the Corporate Debtor for Liquidation.

6. The Resolution Professional further submitted that in the 2nd COC meeting held on 17.02.2021, the COC with majority of 99.56% resolved that the present Resolution Professional i.e., the applicant Mr. Sanju Kumar having registration number IBBI/IPA-002/IP-N00865/2019-2020/12798 to act as Liquidator for the Corporate Debtor and his Lumpsum professional Fee Shall be Rs. 50,000/-.
7. This application has been filed as per the provisions of section 33 of IBC, 2016 of which the relevant sub-section 1 and 2 are reproduced hereunder;

“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).


8. As this Adjudicating Authority, under the circumstances, have not received a resolution plan u/s 30(6) of the code, taking into consideration the provisions of law, as well as on facts, hereby orders for liquidation of the corporate debtor ‘M/s Gautam Techagro India Pvt. Ltd.’, and in the circumstances the



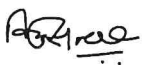


corporate debtor stands Liquidated and the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

- a. Mr. Sanju Kumar, Insolvency Professional holding Registration no. IBBI/IPA-002/IP-N00865/2019-2020/12798, is appointed as Liquidator as his name is approved by COC and he also has given consent to act as the Liquidator vide Written Consent dated 11.11.2021, under section 34 of the Insolvency and Bankruptcy code, 2016 read with Regulation 3 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- b. Mr. Sanju Kumar, is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;



- c. The 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. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly in relation to other fiscal and regulatory authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation
- e. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- f. This order is deemed to be a 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;
- g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of



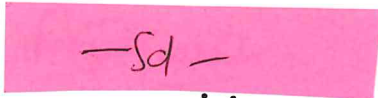


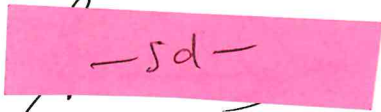
the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.

h. The Liquidator shall submit a 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.

9. Copy of this order be sent to the Corporate Debtor and the Liquidator for taking necessary steps.

10. The IA/1511/(ND)/2021 filed in connection with IB 2217/(ND)/ 2019 is disposed of in the aforesaid terms.


(DR. BINOD KUMAR SINHA)
MEMBER (TECHNICAL)


(P.S.N. PRASAD)
MEMBER (JUDICIAL)

RDS

Pronounced today under Rule 151 of NCLT Rules, 2016 as Hon'ble Member (T) Dr. Binod Kumar Sinha, is not holding the Court today.



Court Officer
14.12.2021