

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

[Before Shri Madan B. Gosavi, Hon'ble Member (J)]

CP (IB) No. 108/KB/2018 alongwith CA(IB) No.557/KB/2019

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Sarla Tantia, residing at 96, Narkeldanga Main Road, Kolkata-700 054.

... **Operational Creditor**

-Versus-

In the matter of:

Nadia Health Care Private Ltd., bearing CIN U85100WB2009 PTC32118 and having its registered office at 81/2A, Raja Dinendra Street, Kolkata- 700 006, West Bengal;

.... **Corporate Debtor**

-And-

In the Matter of:

Hrishikesh Dasgupta, Resolution Professional having office at Bajrang Kunj, Room No.412 & 413, 2B, Grant Lane, 4th floor, Kolkata- 700 012;

... **Applicant**

Counsel appeared:

- | | | |
|----------------------------------|---|-------------------------|
| 1. Mr. Pranay Agarwal, Advocate |] | Resolution Professional |
| 2. Mr. Ankita Baid, Advocate |] | |
| 3. Mr. Hrishikesh Dasgupta, R.P. | } | |

1. Mr. S.K. Baid, Advocate]
2. Mr. Anirban Ray, Advocate] Operational Creditor
3. Mr. M. Chowdhary, Advocate]

Date of Pronouncement of Order: 30.07.2019

ORDER

Sarla Tantia - the Operational Creditor filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s. Nadia Health Care Private Limited** - Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor, as the Corporate Debtor allegedly committed default in paying the lease rent (operational debt) of Rs.2,33,45,860/-.

2. This authority vide order dated 05.10.2018 admitted the corporate debtor in CIRP. One Mr. Hrishikesh Dasgupta having registration no.IBBI/IPA-003/IP-N00082/2017-2018/10705 is appointed as the IRP. On 08.10.2018, IRP made public announcement of CIRP of the corporate debtor by publishing notice in Financial Express (English) and Dainik Statesman (Bengali). He called upon the creditors of the corporate debtor to submit their claims alongwith the proof.

3. It is seen from the record that IRP received claim from only one financial creditor, i.e. State Bank of India. He formed the CoC consisting of State Bank of India having 100% votes on 05.11.2018.

4. CoC directed the RP to prepare Information Memorandum about the assets and liabilities of the corporate debtor. Resolution Professional prepared such information memorandum. As per the instruction of CoC, the RP published notice in Financial Express (English) and Dainik Statesman (Bengali) dated

21.01.2019 calling upon the prospective resolution applicant to submit EoI/ Resolution Plan. Last date of submission of such plan was 02.02.2019. As there was no response, the last date to submit EoI/ Plan was extended till 23.02.2019. CIRP period of 180 days completed on 03.04.2019. However, it was extended for 45 days, as per request of the RP and CoC.

5. In 7th CoC meeting dated 25.02.2019, the CoC instructed the RP to publish fresh notice once again calling upon EoI/Plan. Accordingly, the notice was published in the above newspaper. The last date for submission of plan was fixed on 07.04.2019.

6. On 16.04.2019, the 8th CoC meeting was held. RP did not receive any Resolution Plan. Hence, CoC took decision to request this authority to pass order of liquidation of the corporate debtor and resolution was passed by 100% votes. Accordingly, RP filed this application [CA(IB) 557/KB/2019] under section 33 of IBC.

7. I have gone through the records and proceedings. It appears that despite best efforts from the CoC and the RP, they did not receive any Resolution Plan to resolve insolvency of the corporate debtor. In such situation, this authority has left with no option but to pass order of liquidation of the corporate debtor under section 33 of I&B Code. Hence, I proceed to pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of Part II of I&B Code. I also pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor as follows:

ORDER

By this order, Corporate Debtor- M/s. Nadia Health Care Private Limited is liquidated.

2. Mr. Hrishikesh Dasgupta, having office at Bajrang Kunj, Room No.412 & 413, 2B Grant Lane, 4th floor, Kolkata- 700 012 and having registration no. IBBI/IPA-003/IP-N00082/2017-2018/10705 is appointed as the Liquidator.
3. Mr. Dasgupta is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the IBBI(Liquidation Process) Regulations, 2016.
4. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.
5. The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.
6. 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 I&B Code, 2016.
7. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.
8. Upon proceeding with the liquidation the Liquidator shall file a **preliminary report** as per regulation 5 read with Reg.13 of the IBBI (Liquidation) Regulations, 2016 at the registry within 75 days from the liquidation commencement date and

continue to file **progress reports** as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.

9. The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.

10. Registry is hereby directed to communicate the order to the RP, Financial Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CP(IB) No.108/KB/2018 alongwith CA(IB) No.557/KB/2018 stands disposed off.

Let the certified copy of the order be issued upon compliance with requisite formalities.

List the matter on **14.10.2019** for filing of the progress report.

Sd/-
(Madan B. Gosavi)
Member (J)

Signed on this, the 30th day of July, 2019.