

THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. IV
AT NEW DELHI

CA No. 2029/ND/2020

*Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation
of the corporate debtor*

IN

Company Petition No. (IB)-100(ND)/2019

In the matter of:

Mr. Gaurav Katiyar

Resolution Professional

Applicant

And In the matter of:

Deepali Designs and Exhibits Pvt Ltd

Operational Creditor

Versus

Pico Event Marketing (India) Pvt Ltd

Corporate Debtor

Judgment delivered on 22.10.2020

Coram:

DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)
MS. SUMITA PURKAYASTHA
HON'BLE MEMBER (TECHNICAL)

For RP: Mr. Gaurav Katiyar, RP Ms. Aditi Verma, Adv., Mr. Priyamvada Mishra,
Adv.

*Deepali Designs and Exhibits Pvt Ltd vs
Pico Event Marketing (India) Pvt Ltd*

Memo of Parties

Mr. Gaurav Katiyar

Resolution Professional

(Pico Event Marketing (India) Private Limited)

Having address at D-32, East of Kailash

New Delhi - 110 065

...Applicant

In the matter of

Deepali Designs and Exhibits Pvt Ltd

Having its registered office at Floor I and II,

Plot No. 17, Central Market Punjabi Bagh (West), Delhi ...Operational Creditor

Versus

Pico Event Marketing (India) Pvt Ltd

Having its registered office at Level 2 Elegence,

Mathura Road Jasola, New Delhi - 110 025

...Corporate Debtor

ORDER

Dr. Deepti Mukesh, Hon'ble Member (J)

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (**hereinafter referred as the “Code”**) for issuance of directions for liquidation of the corporate debtor, Pico Event Marketing (India) Pvt Ltd.
2. The facts in brief are that the operational creditor, Deepali Designs and Exhibits Pvt Ltd had filed an application bearing no. IB 100(ND)/2019 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this tribunal vide order dated 23.08.2019 and Mr. Gaurav Katiyar appointed as Interim Resolution Professional (IRP) of Pico Event Marketing (India) Pvt Ltd.
3. The Applicant started discharging his obligations under the Code from the following day. The actions taken by the Applicant have been summarized below:
 - i. The Applicant after non-cooperation from ex directors, has filed an application seeking directions against the suspended director of the Corporate Debtor, two of the Corporate Debtor's group companies. The information was still not given by the

corporate debtor, whatever information and documents about corporate debtor were received by the applicant were from creditors of the corporate debtor and statutory auditor. The Applicant learnt from these documents that the only asset of the Corporate Debtor is the arbitral award dated 3 December 2015 in favour of the Pico Deepali Overlays Consortium (being the trade name for the unincorporated entity comprising the Operational Creditor, Corporate Debtor and one M/s Pico Hong Kong Limited).

- ii. The aforesaid consortium had already filed a petition for execution of the arbitral award while claiming to have the right to represent the Corporate Debtor in the said proceedings. Therefore, in furtherance of RP obligations under Section 25 of the Code, the Applicant filed an application in the said execution proceedings dated 13 November 2019, seeking enforcement of the arbitral award in favour of the Corporate Debtor.
- iii. The aforesaid consortium filed a reply dated 24 December 2019 to the Applicant's EA (OS) No 851/2019. The Applicant learnt from this reply that the aforesaid consortium claimed to

represent the Corporate in two more litigations, namely CS (COMM) 1590 of 2016 and OMP (ENF) (COMM) 75 of 2017. Therefore, the Applicant, in its application dated 19 February 2020 before this Tribunal, has sought an injunction against the aforesaid consortium to prevent its officers from representing the Corporate Debtor.

- iv. That during CIRP, the Applicant received claims from the following entities against the Corporate Debtor:
- M/s Deepali Designs and Exhibits Pvt Ltd, Operational Creditor: Claim aggregating to Rs 18 crores
 - Regional Provident Fund Commissioner, Claim of Rs 1,36,267/-.
- v. The Applicant submits that due lack of credible financial information, absence of audited financial statements for the last two years, and books of accounts of the Corporate Debtor, the Applicant was unable to prepare the information memorandum in accordance with Section 25(2)(g) read with Section 29 of the Code. Hence, the publication of inviting of EOI could not take place and consequently no resolution plan could be invited.

4. In the fourth meeting held on 17.02.2020, COC considered the current status and discussed about possible options and thought fit to take company into liquidation and not apply for extension of CIRP Period. Thereafter COC decided to liquidate the corporate debtor by passing following resolution:

“Resolved That the members of the committee of creditors took note of the facts that under the given facts and circumstances of the case CIRP of Corporate Debtor were not performed during CIRP Process.

- I. Appointment of two Registered Valuers
- II. Submission of Information Memorandum to CoC
- III. Invitation of Expression of Interest
- IV. Publication of Expression of Interest in Form G
- V. Preparation of Provisional list of Resolution Applicants
- VI. Preparation of Final list of Resolution Applicants
- VII. Issue of Request for Resolution Plan along with evaluation matrix
- VIII. Submission of Resolution Plan

Further Resolved That on expiry of 180 days as provided by section 12 of the I & B Code, 2016, and subject to the approval of

Hon'ble National Company Law Tribunal, consent of members of the committee of creditors of the corporate debtor be and his hereby accorded to liquidate the Corporate Debtor, w.e.f. 19.02.2020, as no resolution is possible"

The aforesaid resolution was passed by sole CoC member with 100% voting share.

Resolved Further That subject to the provisions of Section 34 of IBC, 2016 and subject to necessary order to be passed by Hon'ble National Company Law Tribunal, the consent of the members of the committee of creditors of the corporate debtor be and is hereby accorded to appoint Mr. Gaurav Katiyar, Resolution Professional as liquidator of corporate debtor w.e.f. 19.02.2020.

5. Due to non-receipt of a Resolution Plan within 180 days of CIRP and in view of inability of information of corporate debtor, no information of memorandum, COC's only option is to seek the liquidation mode as provided under the provisions of section 33 of IBC, 2016 of which the relevant sub-section 1 of section 33 is 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.”

6. The Committee of Creditors resolved to liquidate the Corporate Debtor in its fourth meeting held on 17th February 2020. The Applicant was approved as liquidator for the Corporate Debtor. The Applicant has given his consent for appointment as Liquidator as required under Section 34(1) of the Code.
7. That a compliance certificate dated 20 February 2020 in accordance with Regulation 39(4) of the Insolvency and Bankruptcy Board of

India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 is annexed.

8. This Tribunal is of the view that as per the record and submissions made, COC and RP has made all endeavours to resolve which has failed to bring results, leading to liquidation of the corporate debtor Pico Event Marketing (India) Pvt Ltd.
9. We hereby order that the corporate debtor Pico Event Marketing (India) Pvt Ltd. is ordered to be 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. As a consequence, we order and give following directions:
 - a. Mr. Gaurav Katiyar Insolvency Professional holding registration no. IBBI/IPA- 001/ IP-P00209/2017-18/ 10409, is be and hereby appointed as Liquidator in terms of Section 34(1) of the Code;
 - b. Mr. Gaurav Katiyar 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.
- i. Copy of this order be sent to the operational creditors, corporate debtor and the Liquidator for taking necessary steps.

C.A. 2029(ND) /2020 is allowed and disposed of in terms of above order.

SD/-

(MS. SUMITA PURKAYASTHA)
MEMBER (T)

SD/-

(DR. DEEPTI MUKESH)
MEMBER (J)