NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(through web-based video conferencing platform)

IA No. 153/2020
In
CP (IB) No. 238/Chd/Hry/2019
(Admitted Matter)

Under Section 21 & 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 16 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

In the matter of:-

Sarthak Gupta and Dolly Gupta …Financial Creditor

Vs.

MLP Developers and
Promoters Private Limited …Corporate Debtor

And in the matter of IA No. 153/2020:-

Mr. Romesh Sawhney …IRP/Applicant

Order delivered on: 10.03.2021

Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)
HON'BLE MR. RAGHU NAYYAR, MEMBER (TECHNICAL)

Present through Video Conferencing: -

For the Applicant-Resolution Professional : 1). Mr. Aditya Trehan, Advocate
2). Mr. Romesh Chander Sawhney, applicant-Resolution Professional in person

Per: Ajay Kumar Vatsavayi, Member (Judicial)

ORDER

IA No. 153/2020

This application has been filed by the Interim Resolution Professional of M/s MLP Developers and Promoters Pvt. Ltd., i.e. the corporate debtor under Section 60(5)(c) read with Section 21 of the I&B Code and Regulation 16 of the IBBI (IRP for Corporate Persons) Regulations, 2016 seeking for passing appropriate directions or orders regarding the constitution of the Committee of Creditors (COC) in the light of the fact that there are no operational creditors, no workmen, no employees and no financial creditors (other than the petitioners and other Directors of the corporate debtor being the related parties as per the provisions of the Code).

2. It is submitted that the Corporate Insolvency Resolution Process has been initiated against the corporate debtor M/s MLP Developers and Promoters Pvt. Ltd., when the CP (IB) No. 238/Chd/Hry/2019 filed by Sarthak Gupta and Dolly Gupta, who are the Directors and also the financial creditors of the corporate debtor was admitted on 27.01.2020 and moratorium under Section 14(1) of the Code was declared and under the same order, the applicant was appointed as the Interim Resolution Professional.

3. It is further submitted that in terms of Rules 6(2)(a) and (b)(i) of the IBBI (IRP for CP) Regulations, 2016, the applicant made the public announcement on 30.01.2020 in the newspapers i.e. Financial Express (English) and Jansata (Hindi) in Chandigarh Edition on 30.01.2020 as the registered office of the corporate debtor is situated at Panipat, Haryana. In pursuance of the

public announcement, the applicant received only two claims which were from the petitioners in the CP (IB) No. 238/Chd/Hry/2019 only, who are the financial creditors of the corporate debtor. The claims of the petitioners are for Rs. 11,19,595/- and Rs. 61,37,795/- respectively. The applicant, as per the Code and Regulations made thereunder, has collated the said claims and has admitted the same based on the documents furnished by them. Other than the above referred claims made by the petitioners/financial creditors/directors of the corporate debtor no other claims are received either from the employees/workmen/operational creditors/any other financial creditors. The petitioners in the CP who are the financial creditors of the corporate debtor and whose claims have been admitted by the applicant cannot form part of the COC being the related parties as they are the directors of the corporate debtor. Since no other claim is received by the applicant, he could not constitute the COC within the specified time. In the circumstances, he filed the instant IA.

4. We have carefully considered the submission of the learned counsel for the RP and have also perused the records

5. It is seen that admittedly other than the claims of the petitioners in the CP, who are the directors and related parties of the corporate debtor, not even a single claim is received against the corporate debtor.

6. In the circumstances, even if the COC is constituted and the process of CIRP is undergone, the claimants would be the petitioners in the CP only. Therefore, we are of the considered view that no useful purpose would be served by constituting the COC and by proceeding with the CIRP process. Hence, we treat this IA as an IA filed under Section 33(1) and direct that the corporate debtor

be liquidated as per the provisions of the Code and Regulations made thereunder.

7. We appoint the Interim Resolution Professional as the Liquidator. In pursuance thereof we issue the following directions: -

(i) That as per Section 33(5) of the Code and subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted against the corporate debtor;

Provided that a suit or other legal proceedings may be instituted by the liquidator on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority;

(ii) That the provisions of sub-section (5) of Section 33 of the Code shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator;

(iii) That this order of liquidation under Section 33 of the Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the liquidator;

(iv) That all the powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator; and

(v) That the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the

Corporate Debtor and provisions of Section 19 of the Code shall apply in relation to liquidation process as they apply in relation to resolution process with the substitution of references to the liquidator for references to the Interim Resolution Professional.

(vi) The Liquidator shall publish public announcement in accordance with Regulation 12 of the Liquidation Process Regulations, 2016 and in Form B of Schedule II of these Regulations within five days from receipt of this order calling upon the stake holders to submit their claims as on liquidation commencement date and provide the last date for submission of claim which shall be 30 days from the liquidation commencement date.

8. It is further directed that the announcement shall be published in accordance with Regulation 12(3) as under:-

> *"(a) In one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the liquidator, the corporate debtor conducts material business operations;*
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> *(b) on the website, if any, of the corporate debtor; and*
>
> *(c) on the website, if any, designated by the Board for this purpose."*

9. In accordance with Regulation 13 of the Liquidation Process Regulations, 2016, the 'Liquidator' shall file his preliminary report within 75 days and to file regular progress reports as per Rule 15 of the Liquidation Process Regulations 2016 every fortnightly thereafter.

10. Copy of this order be supplied to the counsel for the Liquidator as well as to the Registrar of Companies, NCT of Delhi and Haryana forthwith. The

Registry is also directed to send a copy of this order to the Liquidator at his e-mail address.

In result thereof, IA No. 153/2020 stands disposed of.

Sd/-	Sd/-
(Raghu Nayyar)	(Ajay Kumar Vatsavayi)
Member (Technical)	Member (Judicial)

March 10^{th}, 2021
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