

**In the National Company Law Tribunal  
Kolkata Bench  
Kolkata**

**C.P. (IB) No. 785/KB/2019**

**In the matter of:**

An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

**And**

**In the matter of:**

**Mr. Nandalal Khandelwal**, of 36, "Udaychal", 9, Rowdon Street, Kolkata 700017.

**Applicant**

**Versus**

**In the matter of:**

**M/s. Ruchika Tradelink Private Limited**, a Company incorporated under the Companies Act, 1956, having Identification Number U25201WB1999PTC160634, and having registered office at 155, Lenin Sarani, 4<sup>th</sup> Floor, Room No. 402, Kolkata 700013.

**... Corporate Debtor**

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**CORAM: Shri Jinan K.R., Hon'ble Member (Judicial) &  
Shri Harish Chander Suri, Hon'ble Member (Technical)**

**Counsel on Record:**

1. MR. ANIMESH MUKHOPADHYAY ] Resolution Professional
2. MS. ANKITA BAID, Advocate ] For Resolution Professional

**Date of pronouncing of the Order: 03/02/2020**

**ORDER**

**Per Shri Harish Chander Suri, Hon'ble Member (T).**

1. In CP(IB) No. 785/KB/2019 this Tribunal vide order dated 7<sup>th</sup> August, 2019 ordered initiation of Corporate Insolvency Resolution Process against **M/s. Ruchika Tradelink Private Limited** and admitted the petition. Sri Animesh Mukhopadhyay, an Insolvency Resolution Professional was appointed as Interim Resolution Professional to perform his duties under the Code and the relevant Rules.
2. The IRP in his First Progress Report filed on 20<sup>th</sup> September, 2019 submitted that Public Announcement was made in the Newspapers "Financial Express (English edition) and Aajkal (vernacular edition)" on 10<sup>th</sup> August, 2019, as per the code and other applicable Rules and Regulations. The last date for submission of claims was fixed on 21<sup>st</sup> August, 2019. The

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IRP visited the registered office of the Corporate Debtor on 14<sup>th</sup> August, 2019 for taking over symbolic possession. It was seen that no separate sign-board in the name of the Corporate Debtor was put up at the gate of the office and it was realised that certain other Companies were being run from the premises of the registered office of the Corporate Debtor. None of the Directors of the Corporate Debtor were present at the office. The IRP intimated the director of the Corporate Debtor regarding initiation of the Corporate Insolvency Resolution Process and requested the Directors to submit information/records/documents of the Corporate Debtor required for conducting CIRP, vide letter dated 14<sup>th</sup> August, 2019.

3. He further requested the Directors of the Corporate Debtor to be present at the registered office on 16<sup>th</sup> August, 2019 during his second visit to the said office, vide e-mail dated 15<sup>th</sup> August, 2019. On 17<sup>th</sup> August, 2019 the Directors of the Corporate Debtor were reminded to provide the details/pending documents/records etc. Another reminder e-mail was also sent on 28<sup>th</sup> August, 2019 for the said purpose. It is stated that the Corporate Debtor has no substantial business operations since 2016 and thus there was no need for formally taking control and management of the Corporate Debtor by the Interim Resolution Professional other than already done. In terms of the public announcement 7 claims have been received from financial creditors to the tune of Rs.255,35,60,000/- (Rupees Two Hundred Fifty Five Crores Thirty Five Lakhs Sixty Thousand Only) and two claims from Operational Creditors were also received to the tune of Rs.89,38,51,958/- (Rupees Eighty Nine Crores Thirty Eight Lakhs Fifty One Thousand Nine Hundred Fifty Eight Only), out of which the major claim relating to Department of Gujarat State Tax and Commercial Tax to the tune

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of Rs.89,36,54,958/-(Rupees Eighty Nine Crores Thirty Six Lakhs Fifty Four Thousand Nine Hundred Fifty Eight Only) was incomplete and the said claim is under appeal with the appropriate Appellate Authority and has been reflected by the Corporate Debtor under contingent liability in the audited Financial Statement of 2018-19. Similarly, the huge demands of Income Tax Department have also been reflected as contingent liability in the accounts of the Corporate Debtor as the same is under appeal with the appropriate Appellate Authority. Similarly, another claim from National Securities Depositors Limited was inadequate and not in conformity with the requisite form for submission of claims by the Operational Creditor. The name of the IRP was approved for being appointed as the Resolution Professional for the remaining period of CIRP in its meeting held on 6<sup>th</sup> September, 2019. The IRP vide its e-mail dated 14<sup>th</sup> September, 2019 has called for quotations from various Valuers for valuation of the Financial Assets of the Corporate Debtor as the Values of the other class of assets are negligible.

4. The RP filed his 2<sup>nd</sup> Report on 18<sup>th</sup> November, 2019 whereby the COC with 100% majority resolved that necessary quotations be invited for appointment of Forensic Auditor. The COC further resolved that Mr. Neeraj Kumar Surekha and Mr. Rajiv Kumar Agarwal be appointed as Valuers for a fee of **Rs.60,000/-** excluding GST. The COC further ratified the fees and expenses incurred by the RP.
5. In the 3<sup>rd</sup> COC meeting held on 18<sup>th</sup> October, 2019 it was resolved that Mr. D.K. Chajjer & Co. Chartered Accountant is appointed as the Forensic Auditor of the Corporate Debtor. The COC further approved the Information Memorandum with certain modifications and also approved

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the Valuation Matrix and RFRP with certain modifications suggested. It was further informed that Form G for inviting EOI was published in the Newspapers Financial Express and Aajkal on 19<sup>th</sup> October, 2019. The last date of submission of EOI was 3<sup>rd</sup> November, 2019.

6. The RP in his 3<sup>rd</sup> Progress Report has submitted that the Fourth COC meeting was held on 3<sup>rd</sup> December, 2019 in which it was informed that no EOI was received within the stipulated time. On the request of one of the Financial Creditors the RP has suggested two options. (1) Republication of Form G for reaching to Prospective Resolution Applicant in regard to resolution of the Corporate Debtor by virtue of obtaining resolution plan in terms of Section 30 of IBC 2016 and (2) Liquidation of the Corporate Debtor in absence of Resolution Plan in terms of Section 33 of Insolvency and Bankruptcy Code, 2016. The COC ratified the expenses of CIRP and the fees of the RP.

7. The Registered Valuers viz Mr. Rajiv Kumar Agarwal and Neeraj Kumar Surekha also submitted their reports on valuation of securities and financial assets. One of the financial creditors suggested that since the possibility of resolution seems impossible as the operations of the company have absolutely stopped for last couple of years. It was also suggested that in the absence of any viable revenue generating activities of the Corporate Debtor, the resolution process cannot be proceeded with and COC then decided to seek involvement of the legal advisors for the opinion in regard to assessing the cost involvement vis-a-vis issues pertaining to realization and distribution of assets for the liquidation process and requested the RP to allow some more time for holding another COC meeting in this regard.

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8. In the 6<sup>th</sup> meeting of the COC, it was resolved with 100% majority that since no resolution plan has been received and 180 days period is expiring soon, liquidation may be initiated in the matter of Corporate Debtor and the RP was authorised to file for liquidation of the Corporate Debtor before the Hon'ble Adjudicating Authority. It was further resolved that the remuneration of the Liquidator will be based on the fees as mentioned under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016. The RP vide his declaration / consent dated 28<sup>th</sup> January, 2020 submitted his consent and agreed to accept the appointment as Liquidator if an order for Liquidation is passed by this Tribunal.

9. The R.P. has done his best in complying with all the provisions of the Code. In view of the aforesaid facts placed before this Tribunal by the RP in his various Progress Reports and finally 3<sup>rd</sup> and final Progress Report dated 28<sup>th</sup> January, 2020, whereby the COC has approved the liquidation cost and fees of the Liquidator as per the Rules and Regulations, we deem it fit and proper for these circumstances to pass an order of Liquidation of the Corporate Debtor as submitted by the RP, particularly for the reason that the Company has not been doing any operations for so many years and there is no potential resolution applicant to take over or submit its resolution plan. We, therefore, consider it fit and proper without any reservations to the contrary to pass the order of liquidation under section 33 of the I&B code, 2016.

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## ORDERS

- i) **MR. ANIMESH MUKHOPADHYAY**, having registration No. **IBBI/IPA-001/IP-P001214/2017-18/10266** is appointed as the Liquidator.
- ii) Mr. Animesh Mukhopadhyay 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.
- iii) 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.
- iv) The 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.
- v) 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.
- vi) 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

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per Reg. 15(1) within 15 days after the end of the quarter in which he is appointed.

vii) 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.


viii) **C.P. (IB) No. 785/KB/2019** is accordingly **disposed of**.

ix) Registry is hereby directed to communicate the order to the RP, Operational Creditor, Corporate Debtor and the Liquidator by Speed Post and also by e-mail for information and for taking necessary steps.

x) Urgent Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.



(Harish Chander Suri)  
Member (T)



(Jinan K.R.)  
Member (J)

Signed on this, the 03<sup>rd</sup> day of February, 2020.

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