NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH (COURT-II)

C.A. 965/C-II/ND/2019
IN
Company Petition No. (IB)-197(ND)/2018

IN THE MATTER OF :

Sh. Brij Mohan Sahni **...Financial Creditor**

Versus

Pawan Buildwell Pvt. Ltd **...Corporate Debtor**

AND IN THE MATTER OF :

Sh. Arun Chadha, Resolution Professional
Pawan Buildwell Pvt. Ltd.
727, Brahampuri, Meerut City
U.P. - 250002 **...Applicant**

Judgment Delivered on: 05.02.2020

Section: 33(1)(a) and 33(2) of the IBC, 2016.

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant	:	**Ms. Kriti Krishanan and Mr. Arun Khatri, Advocates**
For the Respondent	:	**None**

JUDGEMENT

PER SHRI L. N. GUPTA, MEMBER (T)

This is an application filed by the Resolution Professional under Sections 33(1)(a) and 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for seeking the following reliefs:

> "(a) *Initiate Liquidation process of the Corporate Debtor in terms of Section 33(2) of the Insolvency and Bankruptcy Code, 2016."*
>
> "(b) *Take on record the written consent of the RP to be appointed as the Liquidator of the Corporate Debtor......"*

2. Facts of the case in brief are that the Financial Creditor, Sh. Brij Mohan Sahni filed an application bearing No. IB-197/(ND)/2018 under the Section 7 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, M/s. Pawan Buildwell Private Limited. The said Application was admitted by this Tribunal vide Order dated 07.05.2018 and Mr. Arun Chadha was appointed as Interim Resolution Professional (IRP).

3. It is submitted by the Resolution Professional that the initiation of the CIRP by this Tribunal vide Order dated 04.04.2018 was challenged in an Appeal before the Hon'ble National Company Law Appellate Tribunal ('NCLAT'). The Hon'ble NCLAT vide Order dated 07.08.2018

admitted the Appeal and set aside the Order dated 04.04.2018 passed by this Hon'ble Tribunal. The Financial Creditor therein, challenged the Order of the Hon'ble NCLAT before the Hon'ble Apex Court, wherein the Hon'ble Supreme Court vide Order dated 30.11.2018 set aside the Order dated 07.08.2018 passed by the Hon'ble NCLAT and restored the CIR Process. Consequently, this Tribunal vide Order dated 05.02.2019 excluded the days lost in the litigation and extended the period of CIR.

4. The Interim Resolution Professional constituted a Committee of Creditors (CoC), which comprise of only one Financial Creditor, namely Sh. Brij Mohan Sahni.

5. It is submitted by the Resolution Professional that only two claims were received, one from the Financial Creditor Mr. Brij Mohan Sahni and the other one from M/s Bajaj Finance Limited. The claim of M/s Bajaj Finance Limited was rejected by the RP. Being aggrieved, M/s. Bajaj Finance Limited filed a Company Application No. 367 of 2019 before this Bench. The same has been heard and decided by the Bench on 03.01.2020.

6. It is stated by the Resolution Professional that the last day for submission of Resolution Plan was 26.06.2019 and only one Resolution Plan was received from one Mr. Harshit Sapra. It is further submitted that the said plan was not in conformity with the provisions of the IBC, 2016 and hence, it was rejected by the COC in its 7th meeting held on 03.07.2019.

7. That the Ld. RP had placed the proposal of the Liquidation of the Corporate Debtor before the COC vide agenda item No. C1 in its 7th Meeting held on 03.07.2019, which after discussion, passed the following Resolution :

> *"RESOLVED THAT pursuant to Section 33(2) of the Insolvency and Bankruptcy Code, 2016 the relevant provisions of the Insolvency and Bankruptcy Code, 2016 and in accordance with rules and regulations made thereunder, approval of the committee of creditors be and is hereby accorded for allowing the Resolution Professional to inform the Hon'ble NCLT for initiation of the Liquidation Proceedings against the Corporate Debtor Pawan Buildwell Pvt. Limited as per the decision taken by the members of the COC in the meeting held on 03.07.2019".*

8. It is further submitted by the Ld. RP that the aforesaid Resolution was passed with 100% in terms of voting power of CoC. The same is recorded in the Minutes of the 7th Meeting of COC, which are placed on record.

9. The Ld. RP, Sh. Arun Chadha has given his written consent to act as a Liquidator of the Corporate Debtor which forms part of the Application.

10. In the aforesaid background and there being no other alternative, the Ld. RP vide his application has prayed for allowing liquidation of the Corporate Debtor under Section 33 of the Code.

11. As a sequel to the above, the Application is allowed and Liquidation of the Corporate Debtor namely, M/s. Pawan Buildwell Private Limited is ordered in the manner as laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with the following directions :

a. Mr. Arun Chadha having Registration No. IBBI/IPA-001/IP-P00165/2017-18/10334 is appointed as Liquidator. He is directed to make a public announcement stating that the Corporate Debtor M/s Pawan Buildwell Pvt. Ltd. is in Liquidation in terms of the Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

b. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

c. This order shall be 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;

d. Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued and preferential transactions etc., if any.

e. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the dated of commencement of Liquidation process as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

f. The Registry is directed to communicate a copy of this Order to the Financial Creditor, the Corporate Debtor and the Liquidator Mr. Arun Chadha at the earliest but not later than seven days from today. A copy of this Order be also sent to the ROC for updating the Master Data. After updating the Master Data, ROC shall submit compliance report to the Registrar, NCLT within a period of 30 days.

g. 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.

12. C.A. 965/C-II/ND/2019 filed in IB-197(ND)/2018 is disposed-off in the aforesaid terms.

-Sd-
(L. N. Gupta)
Member (T)

-Sd-
(Ina Malhotra)
Member (J)