

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 209
(IB)-879(ND)2019
IA-1483/2021

IN THE MATTER OF:

M/s. Anjushree Enterprises

...

Applicant/Petitioner

Versus

M/s. C View Innovations Pvt. Ltd.

...

Respondent

Under Section: 9 of IBC, 2016 (CIRP)

Order delivered on 26.05.2022

CORAM:

**SHRI ABNI RANJAN KUMAR SINHA,
HON'BLE MEMBER (J)**

**SHRI L.N. GUPTA,
HON'BLE MEMBER (T)**

PRESENT:

For the Applicant :

For the Respondent : Mr. Gaurav Singh, Adv for Mr. Ashish Agrawal EX-Director

For the RP : Mr. K K Singh, Adv.

ORDER

IA/1483/2021- Heard the Ld. Counsel appearing for the Applicant as well as Mr. Ashish Aggarwal for Respondent No. 4. None appears for the other respondents.

By filing this application under Section 33(2) read with Section 34(1) and 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") and Section 11 of NCLT Rules 2016, the applicant has prayed for following reliefs:

- (a) Pass an order for Liquidation of Corporate Debtor (M/s. C View Innovation Private Limited)
- (b) Also pass an order appointing the Resolution Professional, Sh. Sanjiv Kumar Arora to act as Liquidator and carry out Liquidation Process and Liquidation of Assets of the Corporate Debtor.

Ld. Counsel appearing for the Applicant submits that the COC in its meeting held on 20th March, 2020 has resolved to file liquidation application before the Adjudicating Authority and also authorised the Resolution Professional to file the application. He submitted that no resolution plan has been received and that is the reason, the COC resolved to file the liquidation application. He further submitted that the COC has also resolved to appoint the Resolution Professional to act as a Liquidator under section 34 of the IBC.

He further submitted that the resolution is approved unanimously by the 100% voting share of the COC. Considering the submissions of the applicant, we would like to refer to the minutes of the COC. The scanned copy of the same is reproduced overleaf :

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**MINUTES OF THE THIRD MEETING OF COMMITTEE OF CREDITORS (CoC) OF
CVIEW INNOVATIONS PRIVATE LIMITED (CORPORATE DEBTOR) THROUGH
VIDEO CONFERENCE HELD ON FRIDAY, 20th OF MARCH, 2020, AT 005:00 PM AT
D-3/3465, VASANT KUNJ, NEW DELHI-110070**

PRESENT

The following were present during the CoC Meeting:-

Resolution Professional along with his team

CA and IP Sanjiv Kumar Arora, Resolution Professional

Voting Members – Financial Creditors

S. No.	Name of Participant	Name of Organization
1	Rajesh Kumar, AGM	Union Bank of India

Non-Voting Members

Notice along with agenda of meeting was served to the suspended Promoters/director/CFO of the Corporate Debtor through e-mail. Following persons attended the meeting on behalf of the corporate debtors:-

Suspended Directors

1. Sh. Vipin Tyagi, Suspended Director
2. Sh. Sandeep Awasthi, Suspended Director

A. LIST OF MATTERS TO BE DISCUSSED AND NOTED

1. Chairman

Mr. Sanjiv Kumar Arora, Resolution Professional presided over the meeting and occupied the chair. He welcomed the members in the third Meeting of the Committee of Creditors. All the members joined the meeting through video conference.

2. Quorum

As per Regulation 22(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016, [“IBBI (IRP for CP) Regulations, 2016”] the meeting of Committee of Creditors shall be considered quorate if member(s) of the committee representing at least thirty-three percent of the voting rights are present either in person or by video conferencing or other

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audio and visual means. Accordingly, the Chairman requested the members of the CoC to mark their attendance on the attendance sheet circulated by his team member.

Once attendance was marked, the Chairman took the roll call and declared the meeting quorate with 100 percent attendance since representatives of all the members of the Committee were present in the meeting. The Committee took note of the same and thereafter took the matters for discussions as per the Agenda contained in the notice dated 14th day of March, 2020.

3. To take note of the updated claims received by the RPAs as per section 25(2)(e) of the code.

The Chairman presented before the CoC, details of claims of financial creditor, operational creditor admitted by the RP till 20/03/2020.

4. To take note of the actions taken by the RP.

The activities performed by the RP were duly discussed in the meeting. Detailed discussions took place on the same. Members took note of all the actions taken by RP. The suspended director of the corporate debtor i.e. Mr. Vipin Tyagi & Mr Sandeep Awasthi informed the member of the COC that they have already filed complaints with EOW & Police station against other director Mr. Ashish Aggarwal. A copy of the same has already been provided to the resolution professional by them. Further they provided details of bank account held with various banks by C View Innovations Private Limited. They also expressed in writing their inability to provide the other details of the company asked for by the RP. A copy of the said letter has already been provided to the resolution professional by them.

5. To confirm the minutes of the previous meeting of CoC.

The Chairman presented before the CoC, the minutes of previous meeting of committee of Creditors. The chairman informed the members that minutes of Meeting of committee of Creditors has already been circulated to all the members of Committee of Creditors.

Members took note of the same and approved the Minutes of the second meeting of committee of creditors.

6. To consider and recommend in pursuant to regulation 39c of IBBI (CIRP) regulations, 2016, the sale of corporate debtor as a going concern or sale of the business of corporate debtor as a going concern.

Since the corporate debtor is not having any assets except fixed deposit in bank account. Therefore, stated point was not discussed.

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B. LIST OF MATTERS TO BE DISCUSSED AND VOTED

7. To discuss and consider the filing of application with the Hon'ble National Company Law Tribunal, Delhi bench under regulation 33(2) of IBC, 2016, for the initiation of liquidation and/or dissolution of corporate debtor.

In the absence of any resolution possibility of resolution of corporate debtor, initiation of liquidation of Corporate Debtor was proposed by the member of the COC.

Hence following resolution was proposed and passed unanimously:

"RESOLVED THAT the resolution professional is hereby authorized to file an application for liquidation of the Corporate Debtor, as no resolution of insolvency of the corporate debtor is possible."

"RESOLVED FURTHER THAT, Mr. Sanjiv Kumar Arora, Resolution Professional, be and is hereby authorized, to sign, execute any papers, deeds documents to intimate Hon'ble NCLT about the aforesaid resolution"

8. To appoint resolution professional to act as liquidator within the provisions of section 34 of IBC' 2016.

The members of the COC proposes the name of Mr. Sanjiv Kumar Arora to act as liquidator of the corporate debtor i.e. C View Innovations Private Limited.

Hence following resolution was proposed and passed unanimously:

"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. Sanjiv Kumar Arora, Resolution Professional as liquidator of corporate debtor i.e. C View Innovations Private Limited."

9. To decide the remuneration of liquidator.

The member of the COC proposes remuneration of the liquidator will be as per Regulation 4(2) IBBI (Liquidation Process) Regulation' 2016 to complete liquidation, in the capacity of liquidator of corporate debtor, along with applicable taxes plus out of pocket expenses.

Hence following resolution was proposed and passed unanimously:

RESOLVED THAT the consent of the member of the committee of creditors of Corporate Debtor be and is hereby accorded that the remuneration of Liquidator will be

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as per Regulation 4(2) IBBI (Liquidation Process) Regulation' 2016 to complete liquidation, in the capacity of liquidator of corporate debtor, along with applicable taxes plus out of pocket expenses."

10. To place the CIRP cost up-to date before CoC and seeking the approval of the same.

The chairman informed the members of the COC that in discharge of various functions, has incurred the following expenses including remuneration payable to RP:-

S. No.	Particulars	Amount
1	RP Remuneration (05/02/2020 to 04/03/2020)	49,000
2	Other Miscellaneous expenses and out of pocket expenses incurred by the RP including conveyance and printing and stationery expenses	9,830
3	Bill of Advocate for Professional Fee for drafting and filing two applications before Hon'ble NCLT	11,000
Total		69,830

Hence following resolution was proposed and passed unanimously:

"RESOLVED THAT, the remuneration to RP and expenses incurred aggregating to Rs.69,830/- is hereby ratified by the Committee of Creditors and shall form part of CIRP cost"

c. Vote of thanks

There being no other business to transact, the meeting concluded with a vote of thanks to the Chairman.

Sd/--
Chairman
Dated: 23/03/2020
Place: New Delhi

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2. In the course of hearing, Ld. Counsel appearing for the applicant also submits that the CIRP was initiated on 14th June 2019, the period of which has expired on 20th March 2020, the day on which the COC resolved to file liquidation application.

3. At this juncture, we would also like to refer to Section 33(2) of the IBC, 2016 which reads as below:-

33. Initiation of liquidation. –

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors 1 [approved by not less than sixty-six per cent. of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

2 [Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]

4. Now when we consider the prayer of the applicant in terms of the aforesaid provision, we observe that the COC by 100% voting share has resolved for liquidation of the corporate debtor, as no resolution plan was received.

5. In view of the above, the Application is allowed, ordering Liquidation of the Corporate Debtor, M/s. C View Innovations Pvt. Ltd. in the manner as laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant Rules and Regulations along with the following directions :

6. Since the COC has resolved to appoint the Resolution Professional to act as Liquidator within the provisions of Section 34 of the IBC, who has also given his written consent, therefore, we hereby appoint Mr. Sanjiv Kumar Arora, IP with registration no. (IBBI/IPA-001/IP-P-01462/2018-2019/12390) to act as the Liquidator of the corporate debtor. We further direct the following :


- a. The Liquidator, is directed to issue public announcement clearly stating that the Corporate Debtor is under Liquidation in terms of 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.**
- a. Liquidator is also allowed to institute suit or other legal proceeding on behalf of the corporate debtor under any other law including PMLA, 2002.
- b. The order of Liquidation shall not stand as an obstacle before any investigation initiated against the Corporate Debtor by ED under the Prevention of Money Laundering Act, 2002.
- c. Further, if any of the asset(s) is/are recovered due to de-attachment / release of the assets during any of the investigations or otherwise, which belongs to the Corporate Debtor, the same shall form part of the Liquidation Estate of the Corporate Debtor.
- d. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five (75) days from the Liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- e. **The Registry is directed to communicate a copy of the Order to the Financial Creditor, the Corporate Debtor and Liquidator Mr. Rajiv Bhatnagar at the earliest but not later than seven days from today.**
- f. A copy of this Order be sent by the Registry as well as Liquidator to the Registrar of Companies (RoC), NCT of Delhi & Haryana for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT within a period of 30 days;
- g. **The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board of India or any other authority required under law for their record.**

Corrected by management

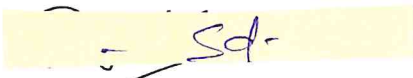
7. Accordingly, in terms of the aforesaid order, IA is hereby allowed.

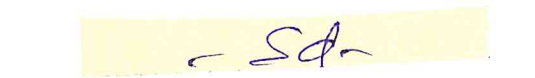

(L. N. GUPTA)
MEMBER (T)


(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

Due to typographical error, in the order dated 26.05.2022 passed in IA-1483/2021 in IB-879(ND)2019, in Para 6(e) in place of Shri Sanjiv Kumar Arora, name of Mr. Rajiv Bhatnagar has appeared. The same error in para 6(e) of the said order is hereby corrected. In place of Mr. Rajiv Bhatnagar, it may be read as Shri Sanjiv Kumar Arora (IBBI/IPA-001/IP-P-01462/2018-2019/12390).

With this, the order dated 26.05.2022 is hereby corrected. The Registry is directed to upload this order along with the original order.


(L. N. GUPTA)
MEMBER (T)


(ABNI RANJAN KUMAR SINHA)
MEMBER (J)