

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

IA-1129/2021 filed under Section 33(2), r/w 34(1) of
the Insolvency and Bankruptcy Code, 2016 In **IB-**
1330(ND)/2019.

In the matter of M/s. Customized Kitchen (India) Pvt. Ltd

Mr. Gulshan Kumar Gupta
Resolution Professional

....Applicant/Resolution Professional

Order delivered on 22nd of March, 2021

CORAM:

CH. MOHD. SHARIEF TARIQ, HON'BLE MEMBER (JUDICIAL)
SHRI NARENDER KUMAR BHOLA, HON'BLE MEMBER (TECHNICAL)

For RP: Mr. Gulshan Kumar Gupta

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under Consideration is IA-1129/2021 filed in IB-1330(ND)/2019 under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred as 'IBC') by the Resolution Professional.

2. The prayers made by the Resolution Professional in the Application are as follows: -

"a. Exclude the litigation period from 09.03.2020 to 18.09.2020 for calculation of time-line of 180 days as application under Section 12A of IBC was filed on 09.03.2020 and rejected by this Hon'ble Tribunal on 18.09.2020.

b. Issue directions to liquidate the Corporate Debtor under Section 33 of the IB Code as the maximum period permitted for completion of the corporate

Insolvency Resolution Process passed and appointment of Mr. Gulshan Kumar Gupta as Liquidator of M/s. Customized Kitchen (India) Pvt. Ltd.

c. Issue directions to the CoC members to contribute proportionately, in accordance with their vote share at CoC toward CIRP cost of Rs. 7,56,930/- (Rupees Seven lakh fifty-six thousand nine hundred and thirty only.) which is duly approved at the 2nd CoC Meeting held on 06.10.2020.

d. Issue directions to the CoC Members to contribute proportionately, in accordance with their vote share at CoC, towards CIRP cost of Rs. 7,10,640 (Rupees Seven Lakh Ten Thousand Six Hundred forty only) pending for approval of CoC and further CIRP expenses till the date of disposal of this application.

e. Issue such other directions as deem fit in the pretext of this application.”

3. Originally, *M/s. Elan Professional Appliances Pvt. Ltd.* (hereinafter referred as “Operational creditor”) had filed IB-1330(ND)/2019 under Section 9 of the IBC against the Corporate Debtor viz., *M/s. Customized Kitchen (India) Pvt. Ltd.* (hereinafter referred as “Corporate Debtor”) to initiate the Corporate Insolvency Resolution Process (hereinafter referred as “CIRP”), to declare moratorium and appoint Interim Resolution Professional (hereinafter referred as “IRP”). This Adjudicating Authority vide its Order dated 18.02.2020, admitted the Application, initiated the CIRP against the Corporate Debtor and appointed Mr. Gulshan Kumar Gupta as IRP.

4. It is averred that the CIRP was due for completion on 16.08.2020 however, due to lockdown period from 09.03.2020 to 18.09.2020 for calculation of time-line of 180 days may be excluded from the CIRP period.

5. Further, it is stated that the Operational Creditor submitted Form FA to Resolution Professional stating that he had settled his claim with Corporate Debtor pursuant to which the Resolution Professional filed an application under Section

12A for withdrawal which was rejected vide order dated 18.09.2020. The directors on 22.01.2021 partially handed over the possession of assets to the Resolution Professional.

6. The 7th CoC Meeting was convened on 11.02.2021 wherein the Resolution Professional sought approval from the CoC for extension of CIRP period, Invitation of EOI, consideration of Liquidation and other matters, however, the majority members did not participate in e-vote and the resolutions that were to be voted remained undecided.

7. Accordingly, the Resolution Professional has filed IA-1129/2021 in IB-1330(ND)/2019 for seeking order for liquidation of the Corporate Debtor viz., *M/s. Customized Kitchen (India) Pvt. Ltd.* and submitted that the reasons for filing the present applications are that the CoC did not participate and there are no significant assets of Corporates Debtor.

8. As no Resolution Plan has been received by this Authority under Sub-section (6) of Section 30 of the IBC, before the expiry of the period of 180 days of CIR Process, the Corporate Debtor has to be Liquidated.

ORDER

9. In view of the facts and circumstances recorded by Resolution Professional in IA-1129/2021 in IB-1330(ND)/2019 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the IBC, this Authority proceeds to pass the Orders as follows: -

- I. The Corporate Debtor viz., *M/s. Customized Kitchen (India) Pvt. Ltd* is Ordered to be liquidated, which shall be conducted in the manner as laid down in Chapter III of part II of the IBC;
- II. This Authority appoints Mr. Gulshan Kumar Gupta as Liquidator, (Reg. No. IBBI/IPA-001/IP-P00021/2016-17/10046, Email ID:

ipgulshan@gmail.com; Mobile No.9810510390) as, who shall file the declaration disclosure statement in the Registry of NCLT, Delhi, within two working days from the date of the receipt of this Order and issue a public announcement stating therein that the Corporate Debtor is in liquidation;

- III. The moratorium declared under Section 14 of the IBC, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the IBC, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove 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.
- VI. This Order 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.
- VII. 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 with the Liquidator viz., **Mr. Gulshan Kumar Gupta.**
- VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. The members of the CoC/Lenders are directed to contribute proportionately in accordance with their voting share towards CIRP/liquidation cost incurred/to be incurred as prayed for in the application.

10. In terms of the above, IA-1129/2021 filed in IB-1330(ND)/2019 by the Resolution Professional under Section 33(2) of IBC, for initiation of the Liquidation Proceedings against the Corporate Debtor viz *M/s. Customized Kitchen (India) Pvt.* stands **allowed**.

11. Copy of this Order shall be sent to the concerned Registrar of Companies, members of the CoC/lenders, OL, and Registered Office of the Corporate Debtor by the Liquidator viz., **Mr. Gulshan Kumar Gupta** for information and compliance.

12. The Registry is directed to send a copy of this Order to the Liquidator with immediate effect for information and compliance.

13. The Order is pronounced.


(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)


(CH. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)