

**THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH  
AT NEW DELHI**

**C.A. 697 (PB) /2019**

**IN**

**Company Petition No. (IB)-419 (PB) /2018**

In the matter of:

Mr. Anil Kumar

Applicant/Resolution Professional

**AND**

In the matter of:

M/s. Pearl Vision Private Limited

Corporate Debtor

*Under Section 33 of the Insolvency and Bankruptcy Code, 2016  
for liquidation of the corporate debtor*

***Judgment delivered on: 22.08.2019***

**Coram:**

**MR. CHIEF JUSTICE (RTD.) M. M. KUMAR HON'BLE PRESIDENT**

**MR. S. K. MOHAPATRA, MEMBER (TECHNICAL)**

For the Applicant: Ms. Sangya Negi, For RP

For the Respondent: Mr. Gautam Singh, Advocate

Mr. Joby P. Varghese, Advocate



## **ORDER**

**S. K. Mohapatra, Member**

1. This is an application filed by the Resolution Professional under Section 33 (2) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the “Code”) for issuance of directions for liquidation of the corporate debtor, M/s. Pearl Vision Private Limited.
2. The facts in brief are that the financial creditor, Indian Overseas Bank, had filed an application under Section 7 of the Code bearing number IB-419 (PB) /2018 for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this Tribunal on 12.10.2018 initiating Corporate Insolvency Resolution Process against the corporate debtor M/s. Pearl Vision Private Limited and there in appointed Mr. Anil Kumar as Interim Resolution Professional (IRP).
3. Thereafter, in terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) the Interim Resolution Professional made



paper publication inviting claims from the creditors of the corporate debtor. Consequently, in compliance of Section 21 of the Code read with Regulation 17 of the CIRP Regulations CoC was constituted.

4. In the first meeting of Committee of Creditors convened on 05.11.2018 the Interim Resolution Professional was appointed as the Resolution Professional to conduct Corporate Insolvency Resolution Process in respect of the corporate debtor.
5. It has been stated in the application that no business operation of the corporate debtor has taken place since the financial year 2012-13. It has also been submitted that there is no trace or possession of plant and machinery of the corporate debtor.
6. With the approval of CoC the resolution Professional invited Expression of Interest in terms of Regulation 36A (1) through paper publication in Form G on 31.12.2018. It is stated that despite the publication, no Expression of Interest was received by the Resolution Professional till the last date for submission of the Expression of Interest. The Resolution Professional informed this fact to the members



of Committee of Creditors by means of emails dated 19.01.2019 and also in the third meeting of CoC held on 25.02.2019.

7. It is stated in the application that the issue was deliberated upon by the members of Committee of Creditors in the third meeting held on 25.02.2019 and it was unanimously decided by the members of the Committee of Creditors that no extension of time for submission of Expression of Interest under 'Form G' can be considered in view of the following:

- a) *Non-cooperation of the Promoter/Director and the Statutory Auditor of the Corporate Debtor in spite of order passed by this Hon'ble Tribunal in applications filed under Section 19 of the Code;*
- b) *No-operations in the Corporate Debtor Company since the financial year 2012-13 till date;*
- c) *Absence of any brand equity;*
- d) *No trace of possession of plant and machinery of the Corporate Debtor Company and;*



e) *Absence of receipt of Expression of Interest in response to pan India publication of 'Form-G'.*

8. In the said third meeting of committee of creditors held on 25.02.2019, it was unanimously decided with 100% votes to initiate liquidation of the corporate debtor with the following resolution:

***“Resolved that the application for initiation of Liquidation of Pearl Vision Private Limited, Corporate Debtor undergoing Corporate Insolvency Resolution Process be filed before the Hon’ble National Company Law Tribunal and accordingly the members of the Committee of Creditors be and is hereby approved the initiation of liquidation of the Corporate Debtor and the Resolution Professional is herein authorized to file the necessary application under the provisions of Section 33 (2) of IBC, 2016 before the Hon’ble National Company Law Tribunal and do all the compliances pertaining to the same.*”**

*Am*

9. It is pertinent to mention here that the applicant Resolution Professional has given his consent to act as Liquidator on 12.03.2019 in terms of Section 34(1) of the Code. CoC in its fourth meeting held on 25.03.2019 has also proposed that the resolution professional shall act as the liquidator of the corporate debtor.
10. It is pertinent to refer to the statutory provisions provided in Section 33 (1) (a) of the Code which mandates that *“where the Adjudicating Authority before the expiry of the maximum period permitted for completion of the corporation insolvency resolution process under Section 12 does not receive a resolution plan under sub-section (6) of Section 30, it shall pass an order requiring the corporate debtor to be liquidated in the manner as laid down in the Chapter.”*
11. Therefore, upon failure of resolution process there being no resolution plan and on completion of the statutory CIRP period; Liquidation has to follow. Adherence to statutory requirement has to be in toto. When the language



of the Code is clear and explicit the Adjudicating Authority must give effect to it whatever may be the consequence.

**12.** In the factual background and in the absence of any resolution plan and for want of time beyond statutory CIRP period; there is no other alternative but to order in conformity with the unanimous decision of the Committee of Creditors *for liquidation of the corporate debtor under Section 33 (1) (a) of the Code.*

**13.** In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s Pearl Vision Private Limited in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:


**a.** Mr. Anil Kumar, having registration no. IBBI / IPA-001 / IP-P000144 / 2017 -18/10308, is appointed as Liquidator in terms of Section 34(1) of the Code.

**b.** Mr. Anil Kumar, is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the

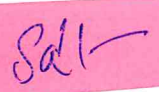


Insolvency and Bankruptcy Board of India  
(Liquidation Process) Regulations, 2016;

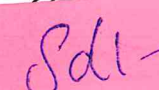
- c.** The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d.** The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- e.** The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.
- f.** The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.



- g.** The liquidator shall also follow up the pending applications/issues for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor.
- h.** The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- i.** Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.
- j.** C.A. 697(PB) /2019 filed in IB 419(PB)/2018 is disposed of in the aforesaid terms.

  
**(M.M. KUMAR)**  
**PRESIDENT**

22.08.2019

  
**(S. K. MOHAPATRA)**  
**MEMBER (T)**