

**THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
C.A. 121/2020  
IN  
Company Petition No. (IB) – 866 (PB) /2018**

*Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for  
liquidation of the corporate debtor*

**In the matter of:**

EDELWEISS ASSET RECONSTRUCTION  
COMPANY LIMITED

.... PETITIONER/  
OPERATIONAL CREDITOR

VERSUS

MARGRA INDUSTRIES LIMITED

..... CORPORATE DEBTOR

**In the matter of:**

Mr. RAJENDER KUMAR GIRDHAR,  
Resolution Professional

.... Applicant

VS.

MARGA INDUSTRIES LIMITED

.... Financial Creditor

**Order Pronounced on : 15.10.2020**

**CORAM:**

**SHRI. B.S.V PRAKASH KUMAR,  
HON'BLE ACTG. PRESIDENT  
SHRI. HEMANT KUMAR SARANGI,  
HON'BLE MEMBER (TECHNICAL)**

For the Applicant(s): Mr. I.P.S Oberoi, Mr. T.P. Singh, Advs. for RP  
Mr. Sanjay Bhatt, Ms. Niharika Sharma, Advs. for EARC



## ORDER

### PER- HEMANT KUMAR SARANGI, MEMBER (T)

1. This is an application filed by the Resolution Professional, under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the “Code”) for issuance of directions for liquidation to Corporate Debtor, M/s.Mrgra Industries Limited.
  
2. The facts in brief are that one of the financial creditor, had filed an application under Section 7 of the Code bearing number IB- 866 (PB)/2018 for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 15.03.2019 initiating CIRP against the Corporate Debtor and there in, appointed Mr. Rajender Kumar Girdhar, as the Interim Resolution Professional (IRP).
  
3. Thereafter, the Applicant had issued public announcement in Form-A, dated 29.03.2019, which was published in ‘The



Financial Express' (English) and 'Jansatta' (Hindi), both NCR editions on 29.03.2019, calling on the CD to submit their proofs on or before 09.04.2019. On receipt of claims and their verification / collation, the Committee of Creditors (CoC) was constituted by the Applicant on 24.04.2019. The said CoC in its first meeting held on 30.04.2019, decided and resolved for the appointment of the applicant as the Resolution Professional.

4. Further, during the process of CIRP the Expression of Interest ("EoI"), was issued thrice in several meetings of CoC, with the extended period sought from the Tribunal. Thereafter, during the extended period one party namely Mr. R.P. Khosla had submitted its EoI on vide email on 10.08.2019 and hard copy by courier on 12.08.2019. However, on examination, the same had been found to be ineligible and non-compliant with the requirements of the Invitation of 'Expression of Interest'.

5. As the CIRP period was ending on 22.09.2019 and neither any resolution plan had been received nor approval for



liquidation of company was passed by the CoC, the applicant as the RP had called for another CoC meeting, being the sixth meeting on 21.09.2019. In the said meeting it was suggested by the members of the CoC for seeking extension of CIRP period by 90 days beyond 180 days and also for inviting fresh EoI by publication of Form-G. Accordingly, the said resolution was approved by 92.29% of members present by ballot voting and as per the final compiled result of voting after conclusion of e-voting; the resolution was approved by the CoC by 92.99% of voting share in favour. This bench by its order dated 11.10.2019, allowed the application and granted extension of time of 90 days beyond 22.09.2019, which has since expired on 22.12.2019.

6. In anticipation of grant of extension of 90 days by this Adjudicating Authority, another invitation for EoI was made by fresh Form-G on 27.09.2019, the last date for receipt of resolution plan was stipulated to be 21.11.2019. In pursuance of the same one resolution applicant,



namely, M/s. Sarvesh Exports Private Limited submitted a Resolution Plan on 21.11.2019 and corrigendum to resolution plan on 20.12.2019. However, the same was found non compliant to the requirements of the RFRP and provisions of the Code by the RP.

7. The CoC in its ninth CoC meeting, held on 21.12.2019, after all the discussions and deliberations on the entire aspect, concluded that there are no other avenues left but to explore the Liquidation process for CD and accordingly resolutions were passed by the CoC with 92.29% vote share. Following resolutions were passed:

***“RESOLVED THAT*** pursuant to Section 34 of the  
*Insolvency and Bankruptcy Code, 2016 and in*  
*accordance with the Regulation 39D of the*  
*Insolvency and Bankruptcy Board of India*  
*(Insolvency Resolution Process for Corporate*  
*Persons), Regulation 2016, read with Regulation 4*  
*of Insolvency and Bankruptcy Board of India*  
*(Liquidation Process), Regulations, 2016*



*(“Liquidation Process Regulations”), where an order for liquidation is passed by an Adjudicating Authority under section 33 of the Insolvency and Bankruptcy Code, 2016, the Committee of Creditors, hereby fix the fee payable to the Liquidator in the following structure:*

*1. If asset is realised within first 6 months of Liquidation order:*

- a. Realisation is less than 12 crores-1.25%*
- b. Realisation is between 12-15 crores-1.5%*
- c. Realisation is above 15 crores-2%*

*If asset realised in between 7-12 months of Liquidation order:*

- a. Realisation is less than 12 crores-1%*
- b. realisation is between 12-15 crores-1.3%*
- c. Realisation is above 15 crores-1.8%*

**RESOLVED FURTHER THAT** *the quantum of the aforesaid fees may be agreed by the Committee of Creditors in consultation and agreement with the resolution professional through e-mail circulation.*

**RESOLVED FURTHER THAT** *the Committee of*



*Creditors hereby authorize Mr. Rajender Kumar Girdhar, Resolution Professional to do all acts, deeds and matters as may be necessary to give effect to this resolution.”*

8. Therefore, in accordance with Regulation 27 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 (“CIRP Regulations”), the erstwhile IRP had appointed two registered valuers, i.e., Mr. Lakhan Lal Gupta and Mr. Vijay Vinod Bhatia, to determine the liquidation value of the Corporate Debtor in accordance with Regulation 35 of CIRP Regulations.
9. Further, in the same meeting the RP had submitted the estimated liquidation value of the assets of the CD based on the valuation reports obtained from the valuers, is approximately Rs. 18,40,85,597/- as per the report of the valuers.
10. In the result the application is allowed by ordering



liquidation of the corporate debtor, namely

M/s.Marga Industries with following directions:

- a. That Mr. Rajender Kumar Girdhar, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
- b. The Mr. Paramjit Singh Bhatia, holding Registration No. IBBI/IPA-001/IP-P00961/2017-2018/11582, is appointed as the Liquidator in terms of Section 32(1) of the Code;
- c. 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 a fresh Moratorium under Section 33(5) of the Insolvency and



Bankruptcy Code shall commence;

- e. This order shall be deemed to be 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;
- f. 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 rules and regulations.
- g. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- h. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.



- i. The Liquidator shall submit 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;
- j. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;
- k. C.A. 121(PB)/2020 filed in IB-866(PB)/2020 is disposed of in terms of the aforesaid terms.

Sd/-

**(B.S.V. PRAKASH KUMAR)**  
**ACTG. PRESIDENT**

Sd/-

**(HEMANT KUMAR SARANGI)**  
**MEMBER (TECHNICAL)**

**15.10.2020**