



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

IA-5216/2022

In

IB -606(ND)/2021

Order under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

**IN THE MATTER OF IB -606(ND)/2021:**

**M/s. BANSAL TRADING COMPANY**

**..... Operational Creditor**

**VERSUS**

**M/s. PERIWINKLE HERBALS PRIVATE LIMITED**

**..... Corporate Debtor**

**AND IN THE MATTER OF IA-5216/2022:**

**Mr. Ahsan Ahmad,**

Resolution Professional of M/s. Periwinkle Herbals Private Limited

**..... Applicant**

**Order Pronounced On: 23.11.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI, MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant : Mr. Sanyam Jain, Adv., a/w Mr. Ahsan Ahmad, RP in person

For the Respondent :

**ORDER**

**PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

1. This Application has been filed by Mr. Ahsan Ahmad, the Resolution Professional of M/s. Periwinkle Herbals Private Limited,

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**Date of Order: 23.11.2023**

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the Corporate Debtor on 20.10.2022 before this Adjudicating Authority under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 ("IBC" or "Code") seeking initiation of liquidation proceedings of the Corporate Debtor on the basis of the decision taken by the Committee of Creditor ("CoC") in the 3<sup>rd</sup> CoC meeting held on 14.09.2022, for seeking the following relief:

- "i) Pass an Order for the initiation of liquidation process of the Corporate Debtor, i.e., Periwinkle Herbals Private Limited, under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016;*
- ii) Pass an Order for the appointment of the Interim Resolution Professional, Ahsan Ahmad, as the Liquidator of the corporate debtor under Section 34 of the Insolvency and Bankruptcy Code 2016;*
- iii) Pass such other orders/ directions as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the case."*

2. **Brief Background of the Case**

An Application was filed by M/s. Bansal Trading Company ("Operational Creditor") to initiate Corporate Insolvency Resolution Process ("CIRP") against M/s. Periwinkle Herbals Private Limited ("Corporate Debtor") under Section 9 of the Code filed before this Adjudicating Authority (Court-III) in (IB)-606/ND/2021. This Adjudicating Authority (Court-III) vide order dated 15.03.2022 ("Admission Order") was pleased to admit the application and a moratorium was declared including approving the appointment of Mr. Ahsan Ahmad as an Interim Resolution Professional.

- 3. The IRP made a public announcement for the invitation of claims in Form-A dated 18.03.2022. Accordingly, the IRP received only one claim from the Operational Creditor of the Corporate Debtor and the Committee of Creditors was constituted on 07.04.2022.
- 4. The 1<sup>st</sup> Meeting of the Committee of Creditors (CoC) was convened on 15.04.2022. Subsequently, the IRP received a claim from the



Financial Creditor namely State Bank of India. Accordingly, the CoC was reconstituted on 15.04.2022.

5. The 2<sup>nd</sup> meeting of the CoC was convened on 17.05.2022, wherein the CoC resolved to appoint Mr. Ahsan Ahmad as the Resolution Professional to carry out the CIRP of the Corporate Debtor and rejected the appointment of valuers on the ground that the Corporate Debtor does not have any assets/property available.
6. The 3<sup>rd</sup> meeting of the CoC was convened on 14.09.2022, wherein the committee of creditors rejected the approval for the extension of CIRP period for 90 days beyond the initial period of 180 days and further accepted and approved (with 100% voting through ballot paper) for filing of interlocutory application seeking liquidator of Corporate Debtor in terms of Section 33(2) of the Code, which is as follows:

*“RESOLVED THAT in pursuant to Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 and the rules made thereunder, the consent of members of the committee of creditors be and is hereby accorded to approve the filing of application with Hon'ble National Company Law Tribunal, New Delhi Bench at New Delhi seeking initiation of liquidation of corporate debtor and to appoint the existing IRP, subject to his consent to act as liquidator in prescribed form, as the liquidator of the corporate debtor.*

*RESOLVED FURTHER THAT in pursuant to Regulation 4 of IBBI (Liquidation Process) Regulations, 2016, the liquidator shall be entitled to a consolidated fee of Rs. 1,00,000/- plus applicable taxes and out of pocket expenses for the entire liquidation process.*

*RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to submit an application before the Hon'ble Adjudicating Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto.”*



7. Since there is no chance of receiving any resolution plan as the Corporate Debtor does not have any assets or property. Also, since the suspended board of directors were not cooperating and have failed to maintain even a registered office and the business has not been in operation since 3-4 years due to which books of accounts and other records cannot be traced, the RP has moved an application before this adjudicating authority seeking liquidation of corporate debtor along with plea to appoint him as the Official Liquidator and fix his fees.
8. Hence, the present Application is being filed by the RP in the interest of justice and the same is bona fide in nature.
9. The Hon'ble Supreme Court in the matter of **K. Sashidhar Versus Indian Overseas Bank & Ors.** in Civil Appeal No. 10673 of 2018 has held that the commercial decision of CoC is non-justiciable. In this case, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.
10. In light of the above facts and circumstances, it is hereby ordered as follows:
  - i. The **IA-5216/2022** filed by Mr. Ahsan Ahmad, the Resolution Professional of M/s. Periwinkle Herbals Private Limited, the Corporate Debtor is **allowed** and **stands disposed of** and the Corporate Debtor is ordered to be liquidated in terms of Section 33(2) of the Code read with sub-clause (i) of clause (b) thereof;
  - ii. The Insolvency and Bankruptcy Board of India ("IBBI") vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under Section 34(4)(b) of the Code had recommended that an IP other than the RP/IRP may be appointed as Liquidator in all the cases where Liquidation order is passed henceforth and the Liquidator can be appointed from the panel list of the IBBI.



- iii.** Therefore, this Adjudicating Authority appoints Mr. Mukesh Kumar Jain as the Liquidator of the Corporate Debtor from the available list of panel of Resolution Professionals/Liquidators as maintained by the IBBI. The Registration number of the Liquidator is IBBI/IPA-001/IP-P-01960/2020-2021/13089, the address of the Liquidator is T-1, 3rd Floor, Front Right Portion, Pankaj Arcade, Pocket MLU, Plot No. 16, Sector-5, Dwarka, Delhi-110075 and the e-mail id of the Liquidator is [fcafcs19@gmail.com](mailto:fcafcs19@gmail.com) and the contact no. of the Liquidator is [+919818478173](tel:+919818478173).

Therefore, the Liquidator shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.

Accordingly, Mr. Mukesh Kumar Jain is appointed as the Liquidator.

- iv.** Mr. Ahsan Ahmad, the Resolution Professional of the Corporate Debtor is relieved from the present assignment as the Resolution Professional. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed Liquidator forthwith.
- v.** The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the Liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceed of the Liquidation estate under Section 53 of the Code.
- vi.** The Liquidator shall initiate the Liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- vii.** Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the



Corporate Debtor is in Liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the Liquidation order timely.

The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees can also be informed of this Liquidation order through their association.

- viii.** All the powers of the Board of Directors, and of key managerial personnel, shall cease to exist in accordance with Section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- ix.** The personnel of the Corporate Debtor are directed to extend all assistance and cooperation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.
- x.** The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Code shall commence. On initiation of the Liquidation process but subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute the suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- xi.** In accordance with Section 33(7) of the Code, this Liquidation order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the



Corporate Debtor continued during the Liquidation process by the Liquidator.

- xii.** 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.
  - xiii.** The Liquidator shall also follow up the pending applications for disposal during the process of Liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
  - xiv.** 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;
  - xv.** The Liquidator and the Registry are hereby directed to send a copy of this order within 3 days from the date of this order to the Registrar of Companies, NCT of Delhi & Haryana. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
  - xvi.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
  - xvii.** The Registry is further directed to send a copy of this order to the IBBI for their record.
  - xviii.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
- No order as to costs.

Sd/-

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

Sd/-

**(BACHU VENKAT BALARAM DAS)  
MEMBER (JUDICIAL)**



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

**Item No. 318**  
Contempt.P17/2023  
In  
IB-606(ND)/2021

**IN THE MATTER OF:**

M/s. Bansal Trading Company

**Vs.**

M/s Periwinkle Herbal Pvt. Ltd.

**.....APPLICANT/PETITIONER**

**.....RESPONDENT**

**SECTION**

**U/s 7 of IBC, 2016**

**Order delivered on 23.11.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

**Contempt.P17/2023:-**

None appears for the Applicant despite repeated calls.

Contempt Petition 17/2023 **dismissed** for non-prosecution.

Sd/-  
**(ATUL CHATURVEDI)**  
**MEMBER (TECHNICAL)**

Sd/-  
**(BACHU VENKAT BALARAM DAS)**  
**MEMBER (JUDICIAL)**