NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-V

(IB)-1874(ND)2019
IA-756/2021

IN THE MATTER OF:
ANURUTAN TEXTILES PRIVATE LIMITED
....Operational Creditor

Versus

SARVESHWAR CREATIONS PRIVATE LIMITED
....Corporate Debtor

AND IN THE MATTER OF:

Mr. Manohar Lal Vij, Resolution Professional,
(Sarveshwar Creations Private Limited)

Section : 33 of IBC, 2016

Order delivered on: 16/12/2021

CORAM:

MR. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (JUDICIAL)

MR. AVINASH K. SRIVASTAVA, HON'BLE MEMBER (TECHNICAL)

PRESENT: -

Mr. Abhishek Naik, Adv. for RP

ORDER

AS PER MR. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)

By filing this application, the Applicant / RP has prayed for the following reliefs.

a) Allow the present Application;

b) Pass an order directing the initiation of liquidation proceedings of the Corporate Debtor in terms of Section 33 of the Code;

c) Appoint the Applicant/Mr. Manohar Lal Vij, Resolution Professional of the Corporate Debtor as the Liquidator of the Corporate Debtor,

d) Approve the Liquidator fee to be paid in accordance with Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016 as noted by the Committee of Creditors in its sixth (6th) CoC meeting dated 24/25.12.2021 read with Addendum dated 16.01.2021;

e) Pass such other necessary order(s)/direction(s) as this Hon'ble Tribunal may deem fit and proper.

2. We have heard the Ld. counsel appearing for the applicant and perused the averments made in the application. The facts of the application in short are:-

i) That CIRP against the Corporate Debtor was initiated on 13/02/2020 and Mr. Manohar Lal Vij was appointed as IRP.

ii) That thereafter, the IRP in terms of Regulation 6(1) of CIRP Regulations made a public announcement and in pursuance of the public announcement, claims of two Financial Creditors namely Canara Bank (erstwhile Syndicate Bank) and Union Bank of India (erstwhile Corporation Bank) were received on 27/02/2020. The claim of the Canara Bank was accepted however, the claim of the Union Bank of India was rejected as the claim was filed without any supporting documents.

iii) That in the first meeting of CoC held on 14th March 2020, the IRP was appointed as Resolution Professional.

iv) The applicant/RP published the Form G inviting expression of interest for submitting resolution plan of Corporate Debtor on 02.07.2020, in Financial Express (English Edition) and Jansatta (Hindi Edition) and accordingly, three prospective resolution applicants had submitted their respective EoI to the applicant by the last date of submission of EOI,i.e by 17/07/2020.

v) That the Canara Bank became the sole member of CoC because the claim of the Union Bank of India was rejected.

vi) That in pursuance of the resolution passed in 3rd meeting of the COC, the applicant had filed an IA-3842/2020 for the exclusion of 68 days from 25.03.2020 to 31.05.2020, on the ground of lockdown and also extension of CIRP for further periods of 90 days and same was allowed vide order dated 18.09.2020 and the revised 270 days of CIRP had come to end on 16.01.2021.

vii) That in pursuance of the order passed by the Hon'ble NCLAT in Company Appeal No. (AT) (Insolvency) 1003/2020 on 25.11.2020, the applicant had admitted a claim of Union Bank of India as a creditor only and not assigned status as a Secured Financial Creditor.

viii) That when the expression of EoI (Form G) was republished on 05.09.2020, then the applicant had received one resolution plan from Mr Kartikeya Singh and Ms Geetica Kweera and after verification, it was found that Ms Geetica Kweera was ineligible under Section 29A of IBC and subsequently, Ms Geetica Kweera was disassociated from the resolution plan and as a consequence of that, Mr Kartikeya Singh was the sole resolution applicant.

ix) That the Resolution Plan of Mr Kartikeya Singh was considered in the 5th meeting of CoC held on 14.12.2020 and the same was deferred and the CoC in its 6th meeting held on 24.12.2020, considered the Resolution Plan and as per the query made by the CoC, the resolution applicant had revised its plan value vide E-mail dated 25.12.2020 and accordingly, the plan was placed before the CoC for approval and as an alternative the resolution qua, the liquidation of the corporate Debtor in the event of CoC reject the Resolution Plan and same was also put for voting.

x) That the CoC rejected/refused to approve the resolution plan and resolved to liquidate the Corporate Debtor. A scanned copy of the Minutes of 6th CoC meeting and ballot paper result sheet dt. 16.01.2021 are reproduced below:

Minutes of 6th CoC meeting

161

AVM RESOLUTION PROFESSIONALS

MINUTES OF THE 6th MEETING OF COMMITTEE OF CREDITORS (COC) OF SARVESHWAR CREATIONS PRIVATE LIMITED (CORPORATE DEBTOR) HELD ON THURSDAY, 24TH DECEMBER, 2020 AT 04.00 P.M. AT 8/28, 3RD FLOOR, W.E.A., ABDUL AZIZ ROAD, KAROL BAGH, NEW DELHI-110005 THROUGH VIDEO CONFERENCING.

TIME OF COMMENCEMENT OF MEETING : 04.00 P.M.
TIME OF CONCLUSION OF MEETING : 06.15 P.M.

A. RESOLUTION PROFESSIONAL

1.	Mr. Manohar Lal Vij	Resolution Professional	Present in Person

B. MEMBERS OF COMMITTEE OF CREDITORS

2	*Canara Bank (Erstwhile Syndicate Bank). SME Branch Noida UP*	1. Ms. Monica Kwatra- (Chief Manager)	Present through Video Conference from SME Branch, Noida.	100% voting share
		2. Mr Abhishek Hindunia (Senior Manager, Legal)	Present through Video Conference from Canara Bank Circle office, New Delhi	
		3. Mr. Manoj Kumar (Divisional Manager)	Present through Video Conference from Canara Bank Circle office, New Delhi.	

C. MEMBERS OF SUSPENDED BOARD OF DIRECTORS

3.	Mr. Apoorva Joshi	Present through Video Conference from Noida, UP upto Agenda Item A-5.
4.	Ms. Geetica Kweera	Absent
5.	Mr. Harish Chandra Singh Kweera	Absent

D. IPE SUPPORT TEAM

6.	Mr. Jagdish Singh Nain	IP from IPE Support Team	Present through Video Conference from Karol

AVM Resolution Professionals LLP (IPE)
8/28, 3rd Floor, W.E.A., Abdul Aziz Road, Karol Bagh, New Delhi – 110005
Website: www.avmresolution.com

MANOHAR LAL VIJ IBBI/IPA-001/

Page | 2

(IB)-1874(ND)2019
IA-756/2021

AVM RESOLUTION PROFESSIONALS

			Bagh Office, New Delhi.
7.	Mr. Pawan Kumar Singal	IP from IPE Support Team	Present through Video Conference from Karol Bagh Office, New Delhi.
8.	Mr. Abhishek Devgan	Legal Associate from IPE Support Team	Present through Video Conference from Karol Bagh Office, New Delhi.

E. SPECIAL INVITEE FOR ITEM NO. B-1 ONLY

9	Mr. Kartikeya Singh – Resolution Applicant	Present through video conference from Noida.

A. List of Matters discussed and noted

Item No. A-1: Resolution Professional (RP) to take Chair.

Pursuant to Regulation 24(1) of Corporate Insolvency Resolution Process (CIRP) Regulations 2016, Mr. Manohar Lal Vij, Resolution Professional (RP) occupied the Chair.

Chairman welcomed the members of COC and other participants to 6th Meeting of the Committee of Creditors (COC).

Item No. A-2: To take Roll Call.

Chairman took Roll Call of participants present in the meeting. Chairman confirmed that the meeting was being attended by RP in person from his office in Karol Bagh, New Delhi, the venue of the COC Meeting. Thereafter, members present introduced themselves by speaking out their name, location and capacity in which they were attending the meeting.

Chairman informed that due to restricted outside movement on account of COVID-19, RP in consultation with COC members, proposed to convene the meeting through Audio & Video Conferencing and shared the link in advance with all the members of the COC and members of suspended Board of Directors, to enable them to join the meeting through Audio & Video Conferencing.

Chairman informed the committee that members of suspended Board of Directors consisted of three Directors, out of which one director namely Mr. Apoorva Joshi attended the meeting through Video Conferencing.

Members of COC and Members of suspended Board of Directors attending the meeting confirmed the followings:

i) That they have received notice of the meeting, Agenda along with all the relevant Annexures of the agenda;

163

ii) That no one other than him/her/them is attending or has access to the proceedings of the meeting at their respective location.

Thereafter, Chairman informed the participant's names of all persons who were present in the meeting.

Item No. A-3: To ascertain presence of Quorum.

Chairman informed the meeting that Committee of Creditors (COC) consists of only one member, i.e. Canara Bank (erstwhile Syndicate Bank), which is attending the meeting through Video Conferencing.

Therefore, pursuant to Regulation 22 (1) of CIRP Regulation 2016, meeting is quorate with 100% presence of members.

Accordingly, Chairman called the meeting to order.

Item No. A-4: To take note of the Minutes of the 5th COC meeting held on 14th December, 2020.

Chairman informed that Minutes of 5th Meeting of the Committee of Creditors held on 14th December, 2020, had been circulated earlier on 16th December, 2020 and also with the Agenda papers for information and taking note of the same by members of committee.

Thereafter, members of the COC took note of the minutes.

Item No. A-5: To take note of updated list of claims received and admitted.

Chairman placed before the committee an updated list of claims received and admitted up to 21st December, 2020, as detailed below: -

Claim category	No of claim received	Amount of claim received	No of claim admitted	Amount of claim admitted
FC	1	6,42,95,551/-	1	6,42,95,551/-
OC	1	1,22,10,069/-	1	32,66,800/-
W&E	Nil	Nil	Nil	Nil
Other Creditors	1	26,53,15,261/-	1	26,49,02,880/-
Total	3	34,18,20,881/-	3	33,24,65,231/-

Chairman informed that since the date of last COC meeting, no new claim has been received or admitted.

COC after some discussion took a note of the above.

MANOHAR LAL VIJ IBBI/PA-001

AVM / RESOLUTION PROFESSIONALS

B. List of Issues voted upon after discussions.

Item No. B-1(a): To discuss and approve the Resolution Plan.

Chairman placed before the meeting the details of the Resolution Plan received from Mr. Kartikeya Singh as detailed below:-

Particulars	Resolution Plan Detail	Rupees in lacs
Value of the plan	➢ CIRP cost ➢ Payment to Secured FC ➢ Payment to OC. a. Payment to EPFO b. Payment to other creditors Total *Additionally, 25% of the amount realized (if any) from Sheen India Pvt. Ltd. (Holding Company) shall be paid to FC. **Out of Rs 340 lacs Resolution Applicant proposes to pay Rs 300 lacs for release of Corporate Guarantee/ Collateral Security/mortgage of Land and Building situated at Pot No. 38-1 Block A Sector 64, Noida, UP in name of G and K Moda Plus Pvt. Ltd. and Personal Guarantee of Geetica Kweera and Apoorva Joshi	➢ 27.33 ➢ 340.00** ➢ 32.67 NIL 400.00
Terms of payment	➢ Upfront Payment within 30 days from the date of approval of Resolution Plan by the Hon'ble NCLT. (CIRP Cost+ EPFO+ Part payment to FC) **Balance in -2- equal instalments** ➢ Ist Instalment within 90 days of approval of Resolution Plan by Hon'ble NCLT ➢ 2nd Instalment to FC within 120 days of approval of Resolution Plan by Hon'ble NCLT.	➢ 100.00 ➢ 150.00 ➢ 150.00
Security for deferred Payment	Release of security Interest on B-58, Sector-63, Noida property on upfront payment. Release of security interest on Plot No. 38-1 Sector 64, mortgaged by G & K Moda Plus Pvt. Ltd. alogwith release of corporate &	

MANOHAR LAL VIJ

(IB)-1874(ND)2019
IA-756/2021

AVM / RESOLUTION PROFESSIONALS

	personal guarantees on payment of entire deferred payment amount .	
Transfer of Management and Control	On Payment Upfront amount.	

Further, RP has accepted claim of Union bank of India of Rs 26,49,02,880/- as unsecured creditor. However, Union Bank of India (Union Bank) has filed an application with Hon'ble NCLAT, requesting a direction to RP to admit its claim as secured financial creditor. If Hon'ble NCLAT, orders that mortgage of B-58, Sector-63, Noida property is not legally valid, as contended and submitted by RP, then Canara Bank would further get Rs 140.00 lacs.

Though, Resolution Applicant (RA) has proposed to pay 25% of the amount realized(outstanding amount Rs 10,27,99,151/-) from Sheen India Pvt. Ltd. (Holding Company), any recovery from holding company seems difficult as its account is presently classified as NPA and Union Bank of India has declared its directors as wilful defaulters.

Chairman informed the committee that as desired by CoC members, he had invited RA Mr. Kartikeya Singh to present his resolution plan before CoC.

Accordingly, Mr. Kartikeya Singh joined the meeting through video conferencing.

The members of COC were of the opinion that the Resolution Plan value was on a lower side.

Mr. Abhishek Hindunia, Senior Manager Legal, requested the Resolution Applicant, Mr. Kartikeya Singh to increase the Resolution Plan value as same is lower than fair value of assets / properties, on which bank is presently having charge.

Mr. Kartikeya Singh, informed the CoC that he had submitted a fair proposal, after considering all factors including present realization value of the properties. On insistence of CoC/ RP, Mr Kartikeya, sought 15 minutes time to discuss with his team privately.

After 15 minutes, Mr. Kartikeya Singh again joined the meeting and improved his offer from Rs. 400 lacs to Rs. 415.00 lacs (i.e increase of Rs 15.00 lacs for the amount proposed for release of corporate guarantee of G and K Moda plus and personal guarantees of promoter directors) .

Mr. Abhishek Hindunia informed RA that increase in value is too small to be considered and therefore, again requested RA to reconsider the plan value.

Mr. Kartikeya Singh, sought a day's time to ponder over and convey his final offer to the RP. Accordingly, CoC asked RA to submit his final offer by 5.00 PM on 25.12.2020 .

CoC asked the Chairman to include final offer of Mr. Kartikeya Singh in the minutes of this Meeting.

Thereafter, members of CoC and RP discussed in private, Resolution Plan of Mr Kartikeya Singh.

Resolution Professional informed the CoC that only assets available in Sarveshwar Creations Pvt. Ltd.is property situated at B-58, sector 63, Noida property. CD has already sold said property on the direction of Union Bank, having charge on said property at a value of Rs 352.00 lacs. Buyer – Mr Kartikeya Singh has already paid Rs 227.00 lacs and only Rs 125.00 lacs is receivable from him. Buyer has also taken physical possession of property and property is presently under renovation. Out of Rs 227.00 lacs, Corporate debtor has paid Rs140.00 lacs to Union Bank of India. As per section 53A of Transfer of Property Act 1882, transfer of B-58, Sector 63, Noida property stands complete, and only transaction pending is receipt of Rs 125.00 lacs from Mr Kartikeya Singh and legal documentation. In view of this, Resolution Plan from any third person / sale of property to third person even under liquidation would not be feasible.

Further, Canara bank does not have any tangible security / first charge on the assets of Corporate Debtor and only security available is corporate guarantee and charge on the property mortgaged by G and K MODA Plus Pvt. Ltd. G and K MODA Plus Pvt. Ltd has not been carrying on any business for a long time and filed its financial statement with MCA in year 2014, and since then no financial statement has been filed with MCA. As per last available Balance sheet of G and K MODA Plus Pvt. Ltd, its net worth is approx. Rs 1.94 crores.

In view of this, any further recovery (except through sale of property bearing No. Plot No. 38-1 Block A Sector 64, Noida, UP mortgaged with Canara Bank) against Corporate Guarantee of G and K Moda Plus Pvt. Ltd. may not be possible. Further, Hon'ble DRT has stayed sale of property No. Plot No. 38-1 Block A Sector 64, Noida, UP, owned by G and K Moda Plus Pvt. Ltd and therefore, enforcement of security interest and thereafter, sale of said property by Canara Bank would be time consuming.

Chairman further informed that net worth of Ms. Geetica Kweera, suspended Director, is approx. Rs 15.00 lacs and net worth of Mr Apoorva Joshi, other promoter director is also more or less of the same amount.

Chairman further informed the committee that if Resolution Plan is not accepted then only alternative is liquidation. Under liquidation only available buyer would be Resolution Applicant. Therefore, net realization, under liquidation, would be unlikely to improve, rather it would go down due to liquidation cost, registration cost of property, notional interest cost etc.

Chairman further informed the Committee that presently original lease deed relating to property B-58, Sector-63, Noida, owned by Corporate Debtor is in the possession of Union Bank of India. In view of this, specific order from Hon'ble NCLT would be necessary, as part of "approval of resolution plan" for release of original lease deed by Union Bank unless Hon'ble NCLAT order is received before that date re confirming status of Union Bank as unsecured creditor.

COC evaluated the resolution plan and found the same to be feasible and viable, subject to explanations given in earlier paragraphs and also noted that there is adequate provision in the Resolution Plan for its effective implementation once Hon'ble NCLT approves the Resolution Plan.

AVM / RESOLUTION PROFESSIONALS

Mr. Kartikeya Singh submitted his further revised offer from Rs. 415.00 lacs (as agreed in the CoC) to Rs. 430.00 lacs vide his E-mail dated 25.12.2020, details of which are provided hereunder:-

(Rs. In Lacs)

Sr. No.	Category of Claims	Amount Claimed	Amount Admitted	Payment proposed in Resolution Plan
A	CIRP Costs-			27.33*
B	Payment towards Claims			
1	Workmen and Employees dues	Nil	Nil	Nil
2	Secured Financial Creditors	3296.11	642.96	370.00**
2 A	Un Secured Financial Creditors Directors and Relative	Nil	Nil	Nil
2B	Un Secured Financial Creditors Non Relative	Nil	Nil	Nil
3	Operational Creditors- Trade Payable	Nil	Nil	Nil
4	Statutory Liability- Claim From PF	122.10	32.67	32.67
	Total	3427.68	675.63	430.00

Note:-

* Any addition / reduction in CIRP cost will be adjusted in amount payable to secured financial creditors.

** **Out of Rs 370 Lac, Resolution Applicant** proposes to pay **Rs. 325 Lac for release of Corporate guarantee/ Collateral Security/** Mortgage **of Land & Building Situated at Plot No. 38-1 Block A Sector 64 Noida UP** in name of **G and K Moda Plus Pvt. Ltd. and Personal Guarantee of Geetica Kweera** and **Apoorva Joshi.**

Payment Schedule:

S. No.	Action	Amount (in lacs.)
I	Upfront payment within 30 days of approval of Resolution Plan by NCLT.	105.00
II	Payment within 90 days of approval of Resolution Plan by NCLT.	162.50
III	Payment within 120 days of approval of Resolution Plan by	162.50

	NCLT.	
	Total	**430.00**

All other terms and conditions of the Resolution Plan shall remain unchanged.

Chairman informed the COC that pursuant to Regulation 39B of the IBBI (Resolution Process for Corporate Persons) Regulations read with Section 33 of the Insolvency and Bankruptcy Code, 2016, the COC is required to make the best estimate of the amount required to meet the liquidation cost in the event an order for liquidation under Section 33 is passed by the Hon'ble NCLT due to rejection of Resolution Plan.

Chairman informed the COC that as per Regulation 2A of IBBI (Liquidation Process) Regulation, 2016, Financial Creditors being financial institutions, to contribute the excess of the liquidation cost over the liquid assets of the CD, as estimated by Resolution Professional in proportion to the financial debts owed to them by the CD.

The estimated value of available liquid assets of the Corporate Debtor is NIL. The estimated liquidation cost of CD is detailed below.

S.NO	HEAD	PARTICULARS	TOTAL
1.	Liquidator Fee	Fee/remuneration payable to liquidator under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation process) Regulation, 2016	As approved by COC
2.	Professional Fee of Advocate	Liquidator shall be required to appoint advocate for preparation of various applications, file various reports, present the Liquidator before Hon'ble NCLT/ NCLAT benches (period 12 months)	75,000/-
3.	Professional Fee of valuer(s).	Since RP has arranged valuation, therefore, no valuation needed	Nil
4.	Accounting Charges	Liquidator shall be required to keep one Accountant to maintain books of accounts of the CD. (Rs. 5,000 for 12 months)	60,000/-
5.	Miscellaneous Expenses	At @ Rs. 2,500/- per month.	30,000/-
6.	Publications Expenses	Liquidator will be required to make various publications in the newspaper/print media for calling claims from creditors, etc.	40,000/-
7	Records storage cost	Records to be preserved for 8 years	50,000/-
8	Selling expenses	E auction cost	50,000/-
		Total estimated liquidation cost	3,05,000/-

Since, CD has no liquid assets, therefore, entire Liquidation Cost shall be contributed by Financial Creditor.

After detailed discussion, Committee asked chairman to put following resolutions for the consideration and approval of COC:-

Resolution No. 1

"**RESOLVED THAT** Resolution Plan received from Mr. Kartikeya Singh, a copy of which duly initialled by the Chairman for purpose of identification was placed on the table of the meeting, be and is hereby approved."

Resolution No. 2

"**RESOLVED THAT** Resolution Professional be and is hereby authorised to submit Resolution Plan, as approved herein above, to Adjudicating Authority along with Compliance Certificate in Form H of the Schedule and to do all such acts and deeds as may be necessary and expedient relating thereto."

"**RESOLVED FURTHER THAT** Resolution Professional be and is hereby authorised to issue Letter of Intent (LOI) to the successful Resolution Applicant as per the terms contained in RFRP and Resolution Plan, as approved hereinabove by the COC."

"**RESOLVED FURTHER THAT** consent be and is hereby accorded for payment of all expenses to be incurred by the Resolution Professional as CIRP cost during the period from the date of this CoC Meeting till the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan or Liquidation of the Corporate Debtor, as the case may be, on the basis of amount and/or rates already approved by the Committee of Creditors in its meeting(s) for payment of Remuneration to Resolution Professional (including fee payable to his IPE for providing support services), Advocate Fees, Audit Fee/Charges, E-Voting Charges, Application Filing Charges with Hon'ble Adjudicating Authority etc."

"**RESOLVED FURTHER THAT** after the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan, all expenses to be incurred by the Resolution Professional including the professional fees payable to Resolution Professional, if appointed, for monitoring the implementation of Resolution Plan from the date of Order of Hon'ble Adjudicating Authority till implementation of Resolution Plan, as approved by Monitoring Committee appointed in terms of the Resolution Plan, shall be paid by successful Resolution Applicant."

CoC after detailed deliberation asked the RP to put the above resolutions to be taken up & decided upon ***through Ballot Paper.***

Item No. B-1 (b): The Situation when Resolution Plan is not approved and Liquidation is ordered by the Adjudicating Authority.

Chairman informed the committee that in case, CoC rejects the Resolution Plan, then only available option is liquidation of Corporate Debtor, as CIRP period would expire on 16.01.2021 or the

Resolution Plan approved by the CoC is not approved by the Hon'ble NCLT and liquidation is order by the Adjudicating Authority, under such a situation, the CoC is required to consider and pass necessary resolutions:-

Resolution No. 3

"RESOLVED THAT pursuant to provision of section 33 (2) of IBC 2016, consent of Committee of Creditors be and is hereby accorded for liquidation of Sarveshwar Creations Pvt. Ltd.- Corporate Debtor.

CoC after detailed deliberation asked the RP to put the above resolutions to be taken up & decided upon ***through Ballot Paper.***

(a) Contribution to liquidation costs (Regulation 39B of IBBI (Resolution Process for Corporate Persons) Regulations, 2016).

Resolution No. 4

"RESOLVED THAT approval of CoC be and is hereby accorded for estimated Liquidation Cost of Rs.3,05,000/- (Rupees Three Lacs & Five Thousands only), plus liquidator fees as approved by the COC, as per the provisions contained in Regulation 39B of IBBI (Resolution Process for Corporate Persons), Regulations, 2016, details of which was placed on the table of the meeting, plus liquidator fee as approved by COC/NCLT/payable as per Sub Regulation 4(2) of the IBBI (Liquidation Process) Regulations, 2016, as the case may be, and estimated value of liquid assets of CD as Rs. NIL."

"RESOLVED FURTHER THAT Financial Creditors be and are hereby give their consent to contribute the excess of the Liquidation Cost over the liquid assets of the CD, estimated to Rs.3,05,000/- (Rupees Three Lacs and Five Thousand only) plus Liquidator Fee as per approved by CoC/ NCLT / payable as per Sub Regulation 4 (2) of IBBI (Liquidation Process) Regulations, 2016, as the case may be in proportion to the financial debts owed to them by the CD."

CoC after detailed deliberation asked the RP to put the above resolutions to be taken up & decided upon ***through Ballot Paper.***

(b) Consent for sale of Corporate Debtor as a going concern (Regulation 39C of IBBI (Resolution Process for Corporate Persons) Regulations, 2016).

Chairman informed the meeting that as per regulation 39(C) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, COC at the time of deciding to liquidate the corporate debtor under section 33, the committee may recommend that the liquidator may first explore sale of the corporate debtor as a going concern under clause (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 or sale of the business of the corporate debtor as a going concern under clause (f) thereof, if an order for liquidation is passed under section 33.

(71)

Further, where the committee recommends sale as a going concern, it shall identify and group the assets and liabilities, which according to its commercial considerations, ought to be sold as a going concern under clause (e) or clause (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Thereafter following resolution was placed before the committee for consideration:

__Resolution No 5.__

"**RESOLVED THAT** Liquidator, to be appointed by Adjudicating Authority, be and is hereby authorized to explore the possibilities of sale of Corporate Debtor as a going concern under Clause (e) or Clause (f) of Regulation 32 of IBBI (Liquidation Process) Regulations, 2016 and in case if he is unable to do the same, he is authorised to sell the assets of the Corporate Debtor on standalone basis / in a slump sale / sale of assets collectively / assets in parcels, as he may deem fit and appropriate."

CoC after detailed deliberation asked the RP to put the above resolutions to be taken up & decided upon ***through Ballot Paper.***

(c) Appointment of Liquidator and fee to be Paid (Regulation 39D of IBBI **(Resolution Process for Corporate Persons) Regulations, 2016).**

The Chairman informed the members of COC that as per section 34 of IBC, 2016, where the Adjudicating Authority passes an order for liquidation of the corporate debtor under section 33, the Resolution Professional appointed for the corporate insolvency resolution process, shall, subject to submission of a written consent by the resolution professional to the Adjudicating Authority in specified forms, act as the liquidator for the purposes of liquidation. The Resolution Professional has given his consent to act as liquidator in case the Adjudicating Authority passes an order for liquidation of the Corporate Debtor under section 33.

The Chairman further informed the committee that the committee may, in consultation with the resolution professional, fix the fee payable to the liquidator, if an order for liquidation is passed under section 33, for:-

(a) the period, if any, used for compromise or arrangement under section 230 of the Companies Act, 2013;
(b) the period, if any, used for sale under clauses (e) and (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016; and
(c) the balance period of liquidation.

The committee took note of the same. Thereafter following resolution was placed consideration:-

__Resolution No 6__

"**RESOLVED THAT** approval of the CoC be and is hereby accorded for the appointment of Mr. Manohar Lal Vij as Liquidator in case the Adjudicating Authority passes an order for liquidation of the Corporate Debtor under section 33 of IBC, 2016."

AVM / RESOLUTION PROFESSIONALS

"**RESOLVED FURTHER THAT** approval of the Committee be and is hereby accorded that Mr. Manohar Lal Vij shall be entitled to liquidation fees at the same rate as being paid to him as Resolution Professional on per month basis (a) for the period, if any, used for compromise or arrangement under section 230 of the Companies Act, 2013 and (b) for the period, if any, used for sale under clauses (e) and (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016; and for balance period of liquidation, the liquidation shall be entitled to receive fees as stipulated in Regulation 4 of IBBI (Liquidation Process) Regulations, 2016."

CoC asked the RP to put the above resolutions, as Alternative Resolutions, to be taken up & decided upon ***through Ballot Paper.***

C. Any other matter with the permission of the Chair.

The Chairman informed the Board that Chairman in the fifth COC meeting proposed a resolution for approving the CIRP Cost incurred till 09.12.2020 which was put to vote through ballot paper. However the Resolution Professional did not receive any response from the COC.

Accordingly, chairman put following resolutions for the consideration and approval of COC:-

*"**RESOLVED THAT** approval be and is hereby accorded for payment of various expenses amounting to Rs. 1,62,570/- incurred by the RP as CIRP cost, details of which were placed before the committee."*

COC asked the RP to put the above Resolution to be taken up and decided upon ***through ballot paper.***

VOTE OF THANKS

Since, there was no other Agenda, therefore, meeting concluded with a thanks to the chair. Chairman thanked all the Participants.

This being the last CoC meeting, therefore, Chairman expressed his gratitude towards all Members of CoC and suspended Directors for their co-operation and guidance in timely completion of CIRP process.

Manohar Lal Vij
Resolution Professional
Sarveshwar Creations Private Limited
IBBI/IPA-001/IP-P01480/2018-2019/12269

MANOHAR LAL VIJ IBBI/IPA-001/IP-P01480/2018-2019/12269 INSOLVENCY PROFESSIONAL

Date:26.12.2020
Place: New Delhi

AVM / RESOLUTION PROFESSIONA

ADDENDUM NO. I TO THE MINUTES OF 6th (SIXTH) COC MEETING OF SARVESHWAR CREATIONS PRIVATE LIMITED (CORPORATE DEBTOR) HELD ON THURSDAY 24th DAY OF DECEMBER, 2020 AT 04:00 P.M. AT 8/28, 3RD FLOOR, W.E.A. ABDUL AZIZ ROAD, KAROL BAGH, NEW DELHI-110005 THROUGH VIDEO CONFERENCING.

Amendment I

The following shall be deleted from Agenda Item No. B-1(b) of minutes of 6th (Sixth) COC meeting dated 24th December 2020.

(a) Contribution to liquidation costs (Regulation 39B of IBBI (Resolution Process for Corporate Persons) Regulations, 2016).

Resolution No. 4

"**RESOLVED THAT** approval of CoC be and is hereby accorded for estimated Liquidation Cost of Rs.3,05,000/- (Rupees Three Lacs & Five Thousands only), plus liquidator fees as approved by the COC, as per the provisions contained in Regulation 39B of IBBI (Resolution Process for Corporate Persons), Regulations, 2016, details of which was placed on the table of the meeting, plus liquidator fee as approved by COC/NCLT/payable as per Sub Regulation 4(2) of the IBBI (Liquidation Process) Regulations, 2016, as the case may be, and estimated value of liquid assets of CD as Rs. NIL."

"**RESOLVED FURTHER THAT** Financial Creditors be and are hereby give their consent to contribute the excess of the Liquidation Cost over the liquid assets of the CD, estimated to Rs.3,05,000/- (Rupees Three Lacs and Five Thousand only) plus Liquidator Fee as per approved by CoC/ NCLT / payable as per Sub Regulation 4 (2) of IBBI (Liquidation Process) Regulations, 2016, as the case may be in proportion to the financial debts owed to them by the CD."

CoC asked the RP to put the above resolutions, as Alternative Resolutions, to be taken up & decided upon ***through Ballot Paper.***

(b) Consent for sale of Corporate Debtor as a going concern (Regulation 39C of IBBI (Resolution Process for Corporate Persons) Regulations, 2016).

Chairman informed the meeting that as per regulation 39(C) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, COC at the time of deciding to liquidate the corporate debtor under section 33, the committee may recommend that the liquidator may first explore sale of the corporate debtor as a going concern under clause (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 or sale of the

MANOHAR LAL V

(IB)-1874(ND)2019
IA-756/2021

business of the corporate debtor as a going concern under clause (f) thereof, if an order for liquidation is passed under section 33.

Further, where the committee recommends sale as a going concern, it shall identify and group the assets and liabilities, which according to its commercial considerations, ought to be sold as a going concern under clause (e) or clause (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Thereafter following resolution was placed before the committee for consideration:-

Resolution No 5.

"RESOLVED THAT Liquidator, to be appointed by Adjudicating Authority, be and is hereby authorized to explore the possibilities of sale of Corporate Debtor as a going concern under Clause (e) or Clause (f) of Regulation 32 of IBBI (Liquidation Process) Regulations, 2016 and in case if he is unable to do the same, he is authorised to sell the assets of the Corporate Debtor on standalone basis / in a slump sale / sale of assets collectively / assets in parcels, as he may deem fit and appropriate."

CoC asked the RP to put the above resolutions, as Alternative Resolutions, to be taken up & decided upon ***through Ballot Paper.***

Amendment II

*Resolution No. 6 mentioned in minutes of 6th (Sixth) COC meeting dated 24th December 2020 be deleted and the following shall be added at the end of point No.(c) of **Item No. B(1)(b):-***

The Committee took note of the provisions contained in section 34 of IBC, 2016 as stated above.

Further the Chairman informed the committee that the Liquidator has proposed to take liquidation fees as prescribed in Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016 on the amount realised only and no fees shall be charged for the amount distributed to stakeholders, for the entire period of liquidation. The Committee took note of the same.

Amendment III

The following shall be added before Resolution No. 1 of Agenda Item No. B-1(a) of minutes of 6th (Sixth) COC meeting dated 24th December 2020.

The Committee after detailed discussion noted the estimated liquidation cost at Rs. 3,05,000/- under Regulation 39B of the IBBI (Resolution Process for Corporate Persons), Regulations, 2016. The Committee further noted that the Corporate Debtor has no liquid asset to fund the

178

AVM / RESOLUTION PROFESSIONAL

liquidation cost, hence the same is required to be funded as per Regulation 2A of the IBBI (Liquidation Process) Regulations, 2016.

The Chairman also informed the meeting that as per regulation 39(C) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, COC at the time of deciding to liquidate the corporate debtor under section 33, the committee may recommend that the liquidator may first explore sale of the corporate debtor as a going concern under clause (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 or sale of the business of the corporate debtor as a going concern under clause (f) thereof, if an order for liquidation is passed under section 33.

The Committee after detailed discussion noted that there seems to be no possibility for the sale of the Corporate Debtor as a going concern under Clause (e) or Clause (f) of Regulation 32 of IBBI (Liquidation Process) Regulations, 2016 as the Corporate Debtor has no ongoing business. Accordingly, the same is not being recommended by the committee.

Manohar Lal Vij
Resolution Professional
Sarveshwar Creations Private Limited
IBBI/IPA-001/IP-P01480/2018-2019/12269

MANOHAR LAL VIJ
IBBI/IPA-001/IP-P01480/2018-2019/12269
INSOLVENCY PROFESSIONAL

Date:16.01.2021
Place: New Delhi

(IB)-1874(ND)2019
IA-756/2021

Ballot Paper Result Sheet

(180)

ANNEXURE A-21

AVM / RESOLUTION PROFESSIONALS

BALLOT PAPER

BALLOT PAPER FOR CASTING VOTE ON THE RESOLUTION(S) AT THE 6TH MEETING OF THE COMMITTEE OF CREDITORS (COC) OF SARVESHWAR CREATIONS PRIVATE LIMITED (CORPORATE DEBTOR) HELD ON THURSDAY, 24TH DECEMBER, 2020.

S.No.	Item No.	Proposed Resolution(s)
1	B-1(a)	<u>To discuss and approve the Resolution Plan.</u> <u>Resolution No. 1</u> **"RESOLVED THAT** Resolution Plan received from Mr. Kartikeya Singh, a copy of which duly initialled by the Chairman for purpose of identification was placed on the table of the meeting, be and is hereby approved." Yes / No ✓ / Abstain कृते केनरा बैंक/ForCANARA BANK मुख्य प्रबंधक/Chief Manager *Kindly tick in the appropriate box.* <u>Resolution No. 2</u> **"RESOLVED THAT** Resolution Professional be and is hereby authorised to submit Resolution Plan, as approved herein above, to Adjudicating Authority along with Compliance Certificate in Form H of the Schedule and to do all such acts and deeds as may be necessary and expedient relating thereto." **"RESOLVED FURTHER THAT** Resolution Professional be and is hereby authorised to issue Letter of Intent (LOI) to the successful Resolution Applicant as per the terms contained in RFRP and Resolution Plan, as approved hereinabove by the COC." **"RESOLVED FURTHER THAT** consent be and is hereby accorded for payment of all expenses to be incurred by the Resolution Professional as CIRP cost during the period from the date of this CoC Meeting till the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan

MANOHAR LAL VIJ IBBI/IPA-001/IP-P01...

(181)

AVM / RESOLUTION PROFESSIONALS

		or Liquidation of the Corporate Debtor, as the case may be, on the basis of amount and/or rates already approved by the Committee of Creditors in its meeting(s) for payment of Remuneration to Resolution Professional (including fee payable to his IPE for providing support services), Advocate Fees, Audit Fee/Charges, E-Voting Charges, Application Filing Charges with Hon'ble Adjudicating Authority etc." "**RESOLVED FURTHER THAT** after the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan, all expenses to be incurred by the Resolution Professional including the professional fees payable to Resolution Professional, if appointed, for monitoring the implementation of Resolution Plan from the date of Order of Hon'ble Adjudicating Authority till implementation of Resolution Plan, as approved by Monitoring Committee appointed in terms of the Resolution Plan, shall be paid by successful Resolution Applicant." Yes No Abstain कृते केनरा बैंक/For CANARA BANK मुख्य प्रबंधक/Chief Manager (Signature) *Kindly tick in the appropriate box.*
2	B-1(b)	**The Situation when Resolution Plan is not Approved and Liquidation is ordered by the Adjudicating Authority.** **Resolution No. 3** "**RESOLVED THAT** pursuant to the provisions of Section 33(2) of the IBC, 2016, consent of Committee of Creditors be and is hereby accorded for liquidation of Sarveshwar Creations Pvt. Ltd.-Corporate Debtor." Yes No Abstain कृते केनरा बैंक/For CANARA BANK (Signature) मुख्य प्रबंधक/Chief Manager *Kindly tick in the appropriate box.*

MANOHAR LAL VIJ IBBI/IPA-001/IP-P01483/

(IB)-1874(ND)2019
IA-756/2021

(182)

AVM / RESOLUTION PROFESSIONALS

3	C	**To discuss and approve CIRP Cost incurred since last COC upto 09.12.2020.** **Resolution No. 4 (Earlier Resolution No.7)** *"RESOLVED THAT approval be and is hereby accorded for payment of various expenses amounting to Rs. 1,62,570/- incurred by the RP as CIRP cost, details of which were placed before the committee."* Yes ✓ No Abstain कृते केनरा बैंक/ForCANARA BANK (Signature) Manager *Kindly tick in the appropriate box.*

Manohar Lal Vij
Resolution Professional
Sarveshwar Creations Private Limited
IBBI/IPA-001/IP-P01480/2018-2019/12269

MANOHAR LAL VIJ IBBI/IPA-001/IP-P01480/2018-2019/12269 INSOLVENCY PROFESSIONAL

Date : 16.01.2021
Place: New Delhi

(183)

AVM / RESOLUTION PROFESSIONALS

SUMMARY RECORD OF THE DECISIONS TAKEN ON THE RELEVANT AGENDA ITEMS AT THE SIXTH (6TH) MEETING OF COMMITTEE OF CREDITORS OF SARVESHWAR CREATIONS PRIVATE LIMITED, CORPORATE DEBTOR UNDER CIRP HELD AT 4.00 P.M. ON THURSDAY, 24TH DECEMBER, 2020; AT 8/28, 3RD FLOOR, W.E.A., ABDUL AZIZ ROAD, KAROL BAGH, NEW DELHI-110005 THROUGH VIDEO CONFERENCING. VOTING WAS CONDUCTED THROUGH BALLOT.

The 6th Meeting of the Committee of Creditors (CoC) of **SARVESHWAR CREATIONS PRIVATE LIMITED** was convened and conducted by Mr. Manohar Lal Vij, Resolution Professional **(RP)** in accordance with Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations, 2016) at 4.00 p.m. on Thursday, 24th December 2020, at 8/28, 3rd Floor, W.E.A, Abdul Aziz Road, Karol Bagh, New Delhi-110005.

Financial Creditors who were present at the meeting did not vote at the meeting on the matters listed for voting. In order to seek a vote of Financial Creditors, on various Agenda Items listed for voting, the ballot was issued to enable them to vote.

Summary of the decision taken on 16th Jan., 2021 on relevant agenda items along with the names of members of the committee, who voted for or against the decision or abstained from voting is enclosed as Annexure - '1'.

(MANOHAR LAL VIJ)
Resolution Professional
In the matter of
Sarveshwar Creations Private Limited
IBBI/IPA-001/IP/P-01480/2018-2019/12269

MANOHAR LAL VIJ IBBI/IPA-001/IP-P01480/2018-2019/12269 INSOLVENCY PROFESSIONAL

Date : 17.01.2021

184

AVM / RESOLUTION PROFESSIONALS

VOTING SHARE OF COMMITTEE OF CREDITORS (FINANCIAL CREDITORS)

S.No.	Name	Financial Creditors / Class of Financial Creditors	No. of Votes	Voting Shares (%)
1	Canara Bank (Erstwhile Syndicate Bank)	Financial Creditor	1	100
	Total			100.00

185

AVM / RESOLUTION PROFESSIONAL

Annexure -1

THE RESULT OF VOTING ON AGENDA ITEM IS SUMMARIZED AS UNDER:-

Item B-1(a) : To discuss and approve the Resolution Plan.

Resolution No. 1

"**RESOLVED THAT** Resolution Plan received from Mr. Kartikeya Singh, a copy of which duly initialled by the Chairman for purpose of identification was placed on the table of the meeting, be and is hereby approved."

Voting Results

S.No.	Name of CoC member having Voting Power	Voting share of Member	Votes in favor of Resolution	Votes against Resolution	Abstained from Voting
1	Canara Bank (Erstwhile Syndicate Bank)	100.00%	0.00%	100.00%	0.00%
	Total	100.00%	0.00%	100.00%	0.00%

Approval of Agenda Item required 66% voting in favor of the Agenda Item. The Members of CoC representing 100% of the total vote casted, voted against the Agenda Item B-1(a) Resolution No.1.

Result

Since the votes casted against Resolution are 100%, the Resolution has not been passed, hence, the Resolution is taken as not approved.

Resolution No. 2

"**RESOLVED THAT** Resolution Professional be and is hereby authorised to submit Resolution Plan, as approved herein above, to Adjudicating Authority along with Compliance Certificate in Form H of the Schedule and to do all such acts and deeds as may be necessary and expedient relating thereto."

"**RESOLVED FURTHER THAT** Resolution Professional be and is hereby authorised to issue Letter of Intent (LOI) to the successful Resolution Applicant as per the terms contained in RFRP and Resolution Plan, as approved hereinabove by the COC."

"**RESOLVED FURTHER THAT** consent be and is hereby accorded for payment of all expenses to be incurred by the Resolution Professional as CIRP cost during the period from the date of this CoC Meeting till the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan or Liquidation of the Corporate Debtor, as the case may be, on the basis of amount and/or rates already approved by the Committee of Creditors in its meeting(s) for payment of Remuneration to Resolution Professional (including fee payable to his IPE for providing support services), Advocate Fees, Audit Fee/Charges, E-Voting Charges, Application Filing Charges with Hon'ble Adjudicating Authority etc."

"**RESOLVED FURTHER THAT** after the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan, all expenses to be incurred by the Resolution Professional including the professional fees payable to Resolution Professional, if appointed, for monitoring the implementation of Resolution Plan from the date of Order of Hon'ble Adjudicating Authority till implementation of Resolution Plan, as approved by Monitoring Committee appointed in terms of the Resolution Plan, shall be paid by successful Resolution Applicant."

Voting Results

S.No.	Name of CoC member having Voting Power	Voting share of Member	Votes in favor of Resolution	Votes against Resolution	Abstained from Voting
1	Canara Bank (Erstwhile Syndicate Bank)	100.00%	0.00%	100.00%	0.00%
	Total	100.00%	0.00%	100.00%	0.00%

Approval of Agenda Item required 51% voting in favor of the Agenda Item. The Members of CoC representing 100% of the total vote casted, voted against the Agenda Item B-1(a) Resolution No.2.

Result

Since the votes casted against Resolution are 100%, the Resolution has not been passed, hence, the Resolution is taken as not approved.

187

AVM / RESOLUTION PROFESSIONALS

Item B-1(b) :The Situation when Resolution Plan is not Approved and Liquidation is ordered by the Adjudicating Authority.

Resolution No. 3

"**RESOLVED THAT** pursuant to the provisions of Section 33(2) of the IBC, 2016, consent of Committee of Creditors be and is hereby accorded for liquidation of Sarveshwar Creations Pvt. Ltd.-Corporate Debtor."

Voting Results

S.No.	Name of CoC member having Voting Power	Voting share of Member	Votes in favor of Resolution	Votes against Resolution	Abstained from Voting
1	Canara Bank (Erstwhile Syndicate Bank)	100.00%	100.00%	0.00%	0.00%
	Total	100.00%	100.00%	0.00%	0.00%

Approval of Agenda Item required 66% voting in favor of the Agenda Item. The Members of CoC representing 100% of the total vote casted, voted in favour of the Agenda Item B-1(b) Resolution No.3.

Result

Since the votes casted in favour of the Resolution are 100%, the Resolution has been passed, hence, the Resolution is taken as approved.

Item C : To discuss and approve CIRP Cost incurred since last COC upto 09.12.2020.

Resolution No. 4 (Earlier Resolution No.7)

"**RESOLVED THAT** approval be and is hereby accorded for payment of various expenses amounting to Rs. 1,62,570/- incurred by the RP as CIRP cost, details of which were placed before the committee."

(IB)-1874(ND)2019
IA-756/2021

188

AVM/ RESOLUTION PROFESSIONALS

Voting Results

S.No.	Name of CoC member having Voting Power	Voting share of Member	Votes in favor of Resolution	Votes against Resolution	Abstained from Voting
1	Canara Bank (Erstwhile Syndicate Bank)	100.00%	100.00%	0.00%	0.00%
	Total	100.00%	100.00%	0.00%	0.00%

Approval of Agenda Item required 51% voting in favor of the Agenda Item. The Members of CoC representing 100% of the total vote casted, voted in favour of the Agenda Item B-1(b) Resolution No.4 (Earlier Resolution No. 7).

Result

Since the votes casted in favour of the Resolution are 100%, the Resolution has been passed, hence, the Resolution is taken as approved.

(Manohar Lal Vij)
Resolution Professional
In the matter of
Sarveshwar Creations Private Limited
IBBI/IPA-001/IP/P-01480/2018-2019/12269

3. Ld. counsel for the applicant submits that the CoC in its 6th meeting held on 24.12.2020, as Item No. B-1(a) considered the approval of the Resolution Plan and as Item No. B-1(b) considered when the Resolution Plan is not approved a liquidation is ordered by the Adjudicating Authority. And both the items were considered by the CoC and CoC by 100 per cent voting reject the approval of Resolution Plan and approved the resolution for liquidation of the Corporate Debtor as per the voting sheet available at Page 185 and 187 by 100 per cent voting. The following resolution was passed ***"resolve that pursuant to the provision of Section 33(2) of the IBC 2016 consent of Committee of Creditors be and is hereby accorded for***

liquidation of Sarveswar Creations Pvt Ltd-Corporate Debtor". Therefore, at this juncture, we would like to refer to relevant provision of Section 33(2) of the IBC and the same is reproduced below:

> **Section 33 IBC: 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 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).***

4. A bare perusal of the provision shows that the Resolution Professional at any time, during the corporate insolvency resolution process but before confirmation of resolution plan, if intimates the Adjudicating Authority of the decision of the committee of creditors 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) of Section 33 IBC.

5. In terms of the provision, when we consider the prayer of the applicant then we observe that the CoC by 100 per cent voting has rejected the Resolution Plan and approved the liquidation of the Corporate Debtor. Under such circumstances we have no option but to approve the Resolution Plan CoC for liquidation of the Corporate Debtor.

6. Accordingly, by exercising our power under Section 33 sub-Section (1)(a) pass the following order: -

i. The Corporate debtor is liquidated with immediate effect in the manner provided under Chapter III Part II of the IBC 2016.

ii. Since the CoC as Resolution No. 6 approved the appointment of Resolution Professional, Mr. Manohar Lal Vij as liquidator, who has also given his consent, hence, we approved the appointment of Resolution Professional to act as a liquidator u/s 34 (1) IBC, 2016.

iii. The liquidator is directed to take custody and control of the assets, property of the Corporate Debtor with immediate effect and made a 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;

iv. The Provision of Section 33 sub-Section 5,6 and 7 IBC, 2016 shall have come into force with immediate effect. 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;

v. 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;

vi. 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;

vii. The Registry is directed to communicate a copy of the Order to the Financial Creditor, the Corporate Debtor and Liquidator Mr. Manohar Lal Vij .immediately;

viii. A copy of this Order be sent by the Registry and 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;

ix. The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board of India for their record.

7. Accordingly, in terms of aforesaid order <u>IA-756/2021 in (IB)-1874(ND)2019 is hereby allowed</u>.

Sd/-

(AVINASH K. SRIVASTAVA)
Member (T)

Sd/-

10.12.2021

(ABNI RANJAN KUMAR SINHA)
Member (J)