

THE NATIONAL COMPANY LAW TRIBUNAL
COURT-IV
AT NEW DELHI
I.A. 4540/2020
IN
Company Petition No. (IB) – 1023(ND)/2018

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

In the matter of:

Model Logistics Pvt. Ltd.

Operational Creditor

V.

M/s Advance Home and Personal Care Private Limited

Corporate Debtor

AND

In the matter of:

Mr. Vivek Parti


Applicant/Resolution Professional

Order delivered on:06.10.2021

Coram:

DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)


MS. SUMITA PURKAYASTHA
HON'BLE MEMBER (TECHNICAL)


I.A. 4540/2020
IN
IB No. 1023(ND)/2018

ORDER

PER MS. SUMITA PURUKAYASTHA, MEMBER (TECHNICAL)

1. This is an application filed by the Resolution Professional under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the Corporate Debtor, Advance Home and Personal Care Private Limited
2. The facts in brief are that the operational creditor, Model Logistics Private Limited, had filed an application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The said application was admitted by this Tribunal on 05.09.2019 initiating CIRP against the corporate debtor and appointed Mr. Vivek Parti as the Interim Resolution Professional (IRP).
3. Thereafter the IRP made the Public Announcement in 'Form A' in respect of initiation of CIRP of CD as well intimated to the all suspended directors of the CD. The IRP after collecting and verifying claims received and constituted Committee of Creditors (CoC).
4. Subsequently, the first meeting of CoC was held in which some matters were discussed and CIRP cost was approved. In the 3rd meeting of CoC held on 27.12.2019, the Interim Resolution Professional was appointed as Resolution Professional.

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5. It is submitted that in terms of Section 25(h) and after approval by CoC in the 3rd meeting held on 27.12.2019, the applicant published the Invitation for Expression of Interest for submitting resolution plan in "Jansatta" and "Financial Express" on 30.12.2019.
6. It is submitted that due to no resolution plan submitted by any Prospective Resolution Applicant, the CoC in its 6th meeting held on 06.03.2020 advised applicant for republication of Expression of Interest in Form-G, which was also published in "Jansatta" and "Financial Express" on 16.03.2020.
7. Thereafter, three Prospective Resolution Plans were received by applicant. However due to nationwide lockdown declared by government, the applicant in terms of Regulation 40C, issued fresh submission of plans. It is submitted that the CoC in its 9th meeting held on 11.09.2020, authorized the applicant to file application for extension of CIRP period considering extension of time given to PRAs for submission of Resolution Plan. However, the extension was not required as no resolution plan was submitted by any PRAs.
8. It is stated that the last date for submission of resolution plan was 24.09.2020, and no resolution plan was received from any PRAs. Considering this fact the CoC in its 11th meeting held on 03.10.2020 approved the resolution for liquidation of the Corporate Debtor and fixed the fee of the liquidator.

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9. The RP has now filed present application with a prayer for liquidation of the Corporate Debtor as the CoC in its second meeting approved the Resolution for Liquidation of CD with 100% voting share.
10. In view of the submission made by the parties the liquidation has to follow as recommended by the Committee of Creditors in terms of provisions of Section 33 (2) of the Code. 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 consequences and in present case the consequence is liquidation of Corporate Debtor.
11. It is submitted that due to non-cooperation of the suspended management and statutory auditors of the corporate debtor despite numerous orders passed by this Tribunal in applications filed by the applicant, the applicant is not able to ascertain the actual financial status of the corporate debtor resulting in delay to adhere to time frame for duties, responsibilities of the applicant.
12. In the factual background, since there is no resolution plan, and in conformity with the decision of the Committee of Creditors with 100% voting share, **the payer for liquidation of the corporate debtor under Section 33 of the Code is hereby allowed.**
13. The applicant has filed its written consent dated 05.10.2020 to act as a liquidator of the Corporate debtor.

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14. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. Advance Home and Personal Care 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. Vivek Parti, having registration number IBBI/IPA-001/IP-P00813/2017-18/11376, is appointed as Liquidator in terms of Section 34(1) of the Code.
- b. Mr. Vivek Parti, 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 (Regulations);
- 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 Code shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the 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 Code 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 pending application, if any, for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- 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 Regulations.
- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.
- j. I.A. 4540/2020 filed in IB 1023 (ND) /2018 is disposed of in the aforesaid terms.


SUMITA PURKAYASTHA
MEMBER (T)


DR. DEEPTI MUKESH
MEMBER (J)