

**THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
I.A. 1263/2020  
IN  
Company Petition No. (IB) – 1344 (PB) /2018**

*Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016  
for liquidation of the corporate debtor*

In the matter of:

Dena Bank

.... Financial Creditor

VS.

M/s Noida Software Technology Park Ltd. .... Corporate Debtor

AND

In the matter of:

Mr Alok Kumar  
Agarwal

.... Applicant/Resolution Professional

**Order Pronounced on: 04.09.2020**

**Coram:**

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

For the Applicant: Mr. Abhishek Anand & Mr. Sumit Bindal  
Advocates on behalf of R.P

For the Respondent:

## ORDER

### PER- B.S.V PRAKASH KUMAR ACTG. PRESIDENT

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. Noida Software Technology Park Ltd.
2. The facts in brief are that one of the Financial Creditor, namely Dena Bank, had filed an application under Section 7 of the Code bearing number IB-1344 (PB)/2018 for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 08.02.2019 initiating CIRP against the Corporate Debtor and there in, appointed Mr. Alok Kumar Agarwal, as the 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 the public announcement in FORM-A on 15.02.2020 in two newspapers namely Financial Express (English), Delhi-NCR Edition and Jansatta (Hindi Edition) of Delhi-NCR Edition. The Public announcement was also duly uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).
4. Thereafter in the first meeting of Committee of Creditor held on 11.03.2020 the IRP was appointed as Resolution Professional (RP) of the Corporate Debtor.
5. Thereafter in the second CoC meeting held on 25.04.2019, RP with the 100% voting of CoC and appointed two registered valuers namely M/s Crest Capital Group Private Limited. M/s R.K Associates



Valuers & Techno Engineering consultants (P) Limited to determine the liquidation value of the corporate debtor. Further the applicant also appointed Kumar Promod & Associates as auditor to conduct the Transaction Review Audit of the corporate debtor.

6. The IRP with the approval of CoC, furnished the information memorandum, Evaluation Matrix and Requested for Resolution Plan (RFRP) by publishing Expression of Interest in two newspapers namely Financial Express (English) and Jansatta (Hindi) on 02.05.2019 with the closure of the EOI as on 17.05.2019.

7. Pursuant to the publication of the Resolution Professional received the Expression of interest from 7 prospective Resolution Applicants on 30.07.2019. Further it is submitted by the applicant in the third CoC meeting that, no resolution plan has been received.



8. Subsequently, in the fourth meeting held on 19.08.2019, The Resolution Professional had mentioned that the CIR process was about to end on 06.08.2019 and in order to give fresh expression of interest for invitation for submission of resolution plan the time period was required to be extended in terms of Section 12(2) of the code.
9. Therefore, the RP with consent of 68.12% votes of CoC filed IA-1500(PB)/2019 before this Adjudicating Authority seeking extension of CIRP for 90 days beyond 180 days. This Bench vide its order dated 08.08.2019 approved the extension of CIRP to 90 days, for submission of the Resolution plan.
10. As per the Applicant, in the fifth CoC meeting held on 09.09.2019. RP with the approval of CoC, published fresh agenda for Expression of Interest (RFRP) in two newspapers namely Financial Express (English) and Jansatta (Hindi) on 10.09.2019 with the closure of the EOI as on 01.11.2019.



11. Thereafter, in the Sixth meeting of CoC, the RP apprised that the Prospective Resolution Applicant (PRA) had submitted the resolution plan. But that plan is not in compliance with the provision of the Code. However, after detailed discussions and deliberations of the CoC decided to give another opportunity to the PRA to submit the revised plan by 17.12.2019.
12. Thereafter in the Eighth meeting of CoC the PRA requested additional 48 hours to submit the plan as it was pending for final approval. Therefore, the CoC decided to hold next session of the meeting on 23.12.2019 and requested the PRA to submit the revised resolution plan.
13. That in the third session of the eighth CoC meeting convened on 26.12.2019, the RP apprised that the submitted resolution plan could not be put to voting, for approval as it consisted of some conditional clauses. Further, PRA agreed to withdraw



the conditional clauses and requested to submit the revised resolution plan by 27.12.2019.

14. The PRA had submitted the revised plan before the COC in the next session. In the meanwhile, two financial creditors i.e. Punjab National Bank and CFM Asset Reconstruction Private Limited, via collective voting shares of 68.94% sought the extension of CIR process and the Bench granted an extension of 30 more days beyond the 330 days with effect from 03.01.2020 on vide its order dated 10.01.2020.

15. In the tenth meeting of CoC held on 21.01.2020, RP apprised the CoC of the additional claim filed by PNB one of the Financial Creditor based on the corporate guarantee given by Corporate Debtor for loans, had admitted. Subsequently, one of the Resolution Applicant had withdrawn its name as a resolution applicant from the resolution plan vide its email dated 21.01.2020. Therefore, the other



resolution applicant Dynamic Process Private Limited requested for time for submitting the resolution plan individually.

16. Thereafter, in the eleventh meeting of CoC held on 27.01.2020 the RP submitted that, in pursuant to withdrawal of the plan by the aforesaid Resolution Applicants, the other resolution applicants cannot file a resolution plan solely in terms of Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

17. Therefore, the CoC after discussions and deliberations based on the facts about this Adjudicating Authority already allowed the extension of CIR process twice, beyond 330 days and having no plan received, with the 69.33% voting decided to file an application for liquidation of corporate debtor under section 33(1) before this Adjudicating Authority.



18. Further, in the same meeting the RP had submitted the estimated fair and liquidation value of the assets of the CD based on the valuation reports obtained from the valuers, is placed it on record as follows:

Valuer Name	Fair Value	Liquidation value
Crest Capital	58,37,39,074	18,59,34,283/-
R.K Associates	58,97,01,236/-	19,48,90,516/-
AVERAGE	58,67,20,155/-	19,04,12,400/-

19. In the factual background of the present case, the Resolution Professional submitted that in the eleventh meeting; the CoC resolved to liquidate the Corporate Debtor as no resolution plan has been received from CD after granting maximum time under the code and the CIRP is about to end on 01.02.2020. Therefore, no other alternative left but to order in conformity with the decision of the Committee of Creditors, the COC voted for liquidation of the corporate debtor under Section 33(1) of the Code.



20. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s Noida Software Technology Park 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. The Mr. Alok Kumar Agarwal, holding Registration No. IBBI/IPA-001/IP-P00059/2017-2018/10137, having email- alok@insolvencyservices.in and Phone No. 0124-4245110/111 is appointed as the Liquidator in terms of Section 32(1) of the Code;

b. 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;



- c. 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;
- d. 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;
- 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 rules and regulations.



- f. 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.
- g. 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.
- h. 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;
- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator



for taking necessary steps;

- j. IA. 1263(PB)/2020 filed in IB 1344/(PB)/2018  
is disposed of in terms of the aforesaid terms.

—sd—

**(BSV PRAKASH KUMAR)**

**ACTNG PRESIDENT**

—sd—

**(HEMANT KUMAR SARANGI)**

**MEMBER (TECHNICAL)**