

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT – II)**

**Item No. 311**  
**(IB)-3042(ND)2019**  
**New IA- 14/2024**

**IN THE MATTER OF:**  
**Varun Shuttering Store**

... **Appellant/Petitioner**

**Versus**

**M/s. Nice Projects Ltd.**

... **Respondent**

**Under Section: 9 of IBC, 2016, Liq.**

**Order delivered on 30.04.2024**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ**  
**HON'BLE MEMBER (J)**

**SH. SUBRATA KUMAR DASH**  
**HON'BLE MEMBER (T)**

**PRESENT:**

**For the Appellant** :

**For the Respondent** :

**For the RP** : Adv. Abhishek Anand, Adv. Sikhar Tiwari

**HYBRID HEARING (PHYSICAL & VC)**

**ORDER**

**IA-14/2024:** The Ld. Counsel for the Applicant (RP) submitted that after the order dated 24.08.2023 passed in IA-4048/2023, the CoC reconsidered the Resolution Plan in its meeting dated 16.12.2023 (Annexure A-31) and resolved that the Corporate Debtor need to be dissolved and an appropriate application for the purpose may be preferred before the Adjudicating Authority. The relevant excerpt of the resolution reads thus:-

**RESOLUTION NO. C-1 (B):**

**TO DISCUSS AND CONSIDER THE FILING OF APPLICATION WITH THE**  
**HON'BLE NATIONAL COMPANY LAW TRIBUNAL, DELHI BENCH UNDER**  
**REGULATION 33(2) OF IBC, 2016, FOR THE INITIATION OF**  
**LIQUIDATION OF CORPORATE DEBTOR.**

As discussed above, in absence of any other resolution of the Corporate Debtor, the CoC suggested to consider the Liquidation of CD. Accordingly, after detailed deliberation, Resolution Professional proposes the following resolution.

**Proposed Resolution**

*To consider and to pass, with or without modification(s), the following resolution:*

**“RESOLVED THAT** subject to the approval of the Hon'ble National Company Law Tribunal (NCLT), New Delhi the Committee of Creditors ('COC') of M/s Nice Projects Limited (the Corporate Debtor) hereby approves the Liquidation of the Corporate Debtor.

**RESOLVED FURTHER THAT** the Resolution Professional be and is hereby authorized to file an application with the Hon'ble National Company Law Tribunal [NCLT, New Delhi for approval of Liquidation of the Corporate Debtor.

**RESOLVED FURTHER THAT** Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be required or considered necessary or incidental thereto.”

**As discussed in COC meeting the E- voting window will be opened from Wednesday i.e. 20<sup>th</sup> December, 2023 at 10:00 A.M. till next Tuesday i.e. 26<sup>th</sup> December, 2023 at 06:00 P.M.**

**RESOLVED FURTHER THAT** the fee of the liquidator for the balance period of liquidation be and hereby approved to the tune Rs. 1,75,000/-per month exclusive of applicable taxes as fee charged by RP as per Regulation 4 (1) of IBBI (Liquidation Process) Regulations” and such cost shall part of the Liquidation Cost.

**Votes Casted:**

Name of CoC Member	Voting Share (%)	Vote Cast (%)			
		For	Against	Abstained	Not Voted
State Bank of India	72.15	72.15	--	--	-
Oxyzo Financial Services Private Limited	2.20	2.20	--	--	--
Naresh Kumar Goyal (Proprietor of Narsing Glass House)	0.38	--	--	--	0.38
Trenty Consultancy Services Private Limited	10.17	--	--	--	10.17
Vicky Electronics Pvt. Ltd.	4.96	--	--	--	4.96
RBL Bank Ltd	9.10	9.10	--	--	--
IIFL Finance Limited	0.14	0.14	--	--	--
HDFC Bank Limited	0.91	--	--	--	0.91
<b>Total</b>	<b>100</b>	<b>83.59</b>	<b>--</b>	<b>--</b>	<b>16.41</b>

**Result:** Based on the aforesaid results, I report that this Resolution as contained in the Resolution No. C-1(A) has been considered with 83.59% Positive voting, 0.00% Negative Voting, 0% abstained from voting and 16.41% not voted hence, it is **Approved**.

As can be seen from the provisions of Section 33(2) of IBC 2016, where the Resolution Professional at any time during the Corporate Insolvency Resolution Process but before confirmation of Resolution Plan intimate the Adjudicating Authority of the decision of the Committee of Creditors (approved by) not less than 66% of the voting share to liquidate the Corporate Debtor the Adjudicating Authority can pass the Liquidation order as referred to in sub-clause 1, 2 & 3 of clause b of sub-section 1 of Section 33 of the Code. The provisions of Section 33(1) and (2) of the Code reads thus:-

**Section 33. Initiation of liquidation.**

*(1) Where the Adjudicating Authority,--*

*(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*

*(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall--*

*(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*

*(ii) issue a public announcement stating that the corporate debtor is in liquidation; and*

*(iii) require such order to be sent to the authority with which the corporate debtor is registered.*

*(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).*

As can be seen from the aforementioned resolution, the CoC could pass the resolution with 83.59% vote share, deciding to liquidate the Corporate Debtor. In view of the aforementioned, we have no option but to direct Liquidation of the Corporate Debtor. Ordered accordingly. Ideally, when the CoC/RP are unable to identify any plan for resolution of insolvency of CD and ultimately a situation is led to, that the CD is to be liquidated, the RP is not appointed as Liquidator. Nevertheless, in the present case, the CoC has suggested the name of IP different from RP to be appointed as Liquidator.

Thus, Mr. Vivek Parti, as suggested by CoC is appointed as the Liquidator qua the Corporate Debtor to carry out the liquidation process inter alia in terms of the following directions:

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 (viz. Sections 35, 36, 38, 39 and 41 thereof) and other relevant rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date, enjoined upon him.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file a suitable application before this Adjudicating Authority.
- d) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- e) 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.
- f) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company applications during the process of liquidation.
- g) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation. 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further reports as are required to be filed under the

relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

h) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

i) The Registry is directed to communicate this order to the Registrar of Companies, having jurisdiction over the Corporate Debtor and the Insolvency and Bankruptcy Board of India;

It goes without saying that fee of the Liquidator would be payable in terms of the provisions of Section 34 (7) of the IBC, 2016 read with Regulation 4 of IBBI (Liquidation Process) Regulation 2016.

**Sd/-**  
**(SUBRATA KUMAR DASH)**  
**MEMBER (T)**

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**