

IN THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH (COURT – II)
(Through Hybrid Mode)

Item No. 119

IA (I.B.C)(LIQ./6(CH)2024, IA (I.B.C)/2913(CH)2023
IA (I.B.C)/2927(CH)2023, IA (I.B.C)/2362(CH)2023
IA (I.B.C)/2366(CH)2023, IA (I.B.C)/2364(CH)2023
IA (I.B.C)/2365(CH)2023, IA (I.B.C)/436(CH)2024
In

CP (IB) No. 147(CH)2023
Admitted

IN THE MATTER OF:
Sapna Cars Pvt. Ltd.

...Petitioner-Financial Creditor

Versus

Padam Motors Pvt. Ltd.

... Respondent-Corporate Debtor

Under Section: 7, 19(2), 33(1) (b) (i) to (iii) r/w 33(3), IBC 2016
Rule : 11 of NCLT, 2016

Order delivered on 01.04.2024

CORAM:
SHRI. L. N. GUPTA,
HON'BLE MEMBER (T)

SHRI. HARNAM SINGH THAKUR,
HON'BLE MEMBER (J)

PRESENT:

For the RP : Mr. Abhishek and Mr. Vineet, Advocates for RP
Mr. Anil Kumar Jain, RP in person

ORDER

IA (I.B.C)(LIQ./6(CH)2024

The present application has been filed under Section 33(2) of the I&B Code, 2016 for initiation of the liquidation process. Heard the Ld. Counsel for the RP along with RP in person. The CoC in its meeting held on 17.01.2024 vide Resolution No.1 (page No.82 of the application), has decided to liquidate the

corporate debtor and passed the resolution to that effect with 100% voting shares. Keeping in view the facts and circumstances mentioned in the present application bearing Interlocutory Application i.e. IA(I.B.C)(LIQ./6(CH)2024 can be allowed. It is revealed from the record available on the file that when necessary compliance of Regulation 39(b), 39(c) and 39(d) has been made, thus, Liquidator process of Corporate Debtor can be initiated. Mr. Somnath Gupta is appointed as Liquidator bearing Registration No. IBBI/IPA002/IPN00042/2016-17/10081 e-mail: somgupta_62@rediffmail.com from the list provided by Insolvency and Bankruptcy Board of India and his AFA is valid up to 25.10.2024 subject to his written consent to be filed within 07 days of this order along with affidavit stating that no disciplinary proceedings have been initiated against him by the Board or the Insolvency Professional Agency. The Law Research Associate of this Adjudicating Authority has checked the credentials of Mr. Somnath Gupta and nothing adverse has been found against him.

2. Accordingly, by exercising our power under Section 33(2) we pass the following orders:-

- i. The Corporate debtor is liquidated with immediate effect in the manner provided under Chapter III Part II of the IBC 2016;
- ii. Mr. Somnath Gupta, shall take over the charge of the entire records and assets of the corporate and perform his duty, as required under the Code and Regulations
- 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 (5), (6) and (7) of the 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 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 Liquidator shall file regular progress reports as per Regulation 15 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 every fortnightly thereafter;

viii. The Liquidator shall take necessary legal action to recover the trade receivables and other credits, such as loans and advances from the parties, which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.

ix. 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 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.

x. That all the powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator;

xi. That the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provisions of Section 19 of the Code shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the Interim Resolution Professional

xii. The liquidator will be entitled to the protection of action taken in a good faith as per the provisions of Section 233 of the Insolvency and Bankruptcy Code 2016

xiii. The Registry is directed to communicate a copy of the Order to the Corporate Debtor immediately;

xiv. A copy of this order be sent by the Registry to the concerned Registrar of Companies (RoC) for updating Master Data. After updating Master Data, RoC shall send a compliance report to the Registrar, NCLT, within a period of 30 days.

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

xvi. The Liquidator is at liberty to seek any directions, if need be, from this Tribunal during the Liquidation Process.

Thus, IA(I.B.C)/LIQ./6(CH)2024 is allowed and disposed of accordingly.

IA (I.B.C)/2913(CH)2023

This application has been filed under Rule 11 of the NCLT Rules, 2016 for placing on record the 4th progress report along with affidavit. The same is taken on record subject to just exceptions. ***Thus, IA (I.B.C)/2913(CH)2023 is disposed of accordingly.***

IA (I.B.C)/2927(CH)2023

Heard. Issue notice of this application to the respondent(s). The applicant shall collect the notices from the Registry and send the same by speed post as well as by e-mail, if available, immediately to the respondent(s) at their registered address attaching therewith copy of the application and the entire paper book and the copy of this order.

In case, the service of speed post on the aforesaid respondent(s) is not affected, the applicant shall adopt the mode of substituted service and the notice of hearing be advertised in two daily newspapers (one English and one Hindi) having wide circulation in the area.

The applicant shall file affidavit of service supported by postal receipt, tracking report, paper clippings and copy of e-mail within two weeks.

Reply be filed within two weeks after receipt of notice with a copy in advance to the counsel opposite. Rejoinder thereto, if any, be filed two weeks thereafter with a copy in advance to the counsel opposite.

List on 14.05.2024.

IA (I.B.C)/2362(CH)2023

This application has been filed for placing on record the report certifying the constitution of CoC by the Interim Resolution Professional (IRP). The same is taken on record subject to just exceptions. ***Thus, IA (I.B.C)/2362(CH)2023 is disposed of accordingly.***

IA (I.B.C)/2366(CH)2023

This application has been filed under Rule 11 of NCLT Rules, 2016 for placing on record the 2nd fortnightly progress report. The same is taken on record subject to just exceptions. ***Thus, IA (I.B.C)/2366(CH)2023 is disposed of accordingly.***

IA (I.B.C)/2364(CH)2023

This application has been filed under Rule 11 of NCLT Rules, 2016 for placing on record the 1st fortnightly progress report. The same is taken on record subject to just exceptions. ***Thus, IA (I.B.C)/2364(CH)2023 is disposed of accordingly.***

IA (I.B.C)/2365(CH)2023

This application has been filed under Rule 11 of NCLT Rules, 2016 for placing on record the 3rd fortnightly progress report. The same is taken on record

subject to just exceptions. **Thus, IA (I.B.C)/2365(CH)2023 is disposed of accordingly.**

IA (I.B.C)/436(CH)2024

This application has been filed under Rule 11 of NCLT Rules, 2016 r/w Regulation 13(2) (D) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 including additional claims received from August 21, 2023 till October 25, 2023 along with supporting affidavit. The same is taken on record. **Thus, IA (I.B.C)/436(CH)2024 is disposed of accordingly.**

Sd/-
(L. N. GUPTA)
HON'BLE MEMBER (T)

Sd/-
(HARNAM SINGH THAKUR)
HON'BLE MEMBER (J)