

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT III
NEW DELHI

IA-1261/2021 filed U/S. 33 (2) of the
IBC Code, 2016.

IN

CP (IB)-2976(ND)/2019

In the matter of M/s. FLPL Logistics Pvt. Ltd.(CD)

Mr. Rishabh Chand Lodha, RP for CD

.... Applicant

Order delivered on 22nd March, 2021

CORAM:

CH. MOHD SHARIEF TARIQ, HON'BLE MEMBER (JUDICIAL)

Shri NARENDER KUMAR BHOLA, HON'BLE MEMBER (TECHNICAL)

For Applicant: Mr. Rishabh Chand Lodha (RP), Mr. Abhishek Naik

(Advocate)

ORDER

Per. CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration is an Application filed by the Resolution Professional viz., Mr. Rishabh Chandh Lodha (hereinafter referred as "Resolution Professional"), under Section 33 (2) R/w Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC") for seeking liquidation order of the Corporate Debtor viz., M/s. FLPL Logistics Private Limited, based on the resolution passed by

the Committee of Creditors in its 7th Meeting held on 20.02.2021 by 98.08% voting Share. The other prayers made in the Application are: -

- “a) appoint the applicant/ Mr. Rishabh Chand Lodha Resolution Professional of the Corporate Debtor as the Liquidator of the Corporate Debtor.*
- b) Approve the Liquidator fee to be paid in accordance with Regulation 4 (2) (b) of the IBBI (Liquidation Process) Regulations, 2016 as approved by the Committee of Creditors in its 7th CoC meeting dated 23.02.2021.*
- c) Pass such other necessary order(s)/direction (s) as this Hon’ble tribunal may deem fit and proper.”*

2. On perusal of the Application, it appears that application CP (IB)-2976(ND)/2019 was filed by the Financial Creditor viz., *Nuvision (Delhi) Pvt Ltd.* against the Corporate Debtor viz., *FLPL Logistics Pvt Ltd.* (hereinafter referred as “Corporate Debtor”), under Section 7 of IBC, 2016 R/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate Corporate Insolvency Resolution Process (hereinafter referred as “CIRP”), to declare moratorium and to appoint Interim Resolution Professional (hereinafter referred as “IRP”). This Adjudicating Authority vide Order dated 15.01.2020, admitted the Application, initiated the CIRP against the Corporate Debtor and appointed Insolvency Professional viz., Mr. Sukhdev Madnani as IRP.

3. It is averred that pursuant to the Order of this Authority, vide Order dated 01.12.2020 and further rectified order dated 15.01.2020, the Resolution Professional was appointed for carrying out the CIRP. The IRP made public announcement on 29.02.2020 in newspapers namely Business Standard (English & Hindi Edition). The IRP collated all the claims submitted by the creditors in response to the public announcement and constituted the Committee of Creditors on 20.03.2020 (hereinafter referred as “CoC”) which comprises of two members viz., Union Bank of India and Nuvision (Delhi) Pvt Ltd. Subsequently, the Report dated 20.03.2020 under Regulation 17(1) of the CIRP Regulation has been filed. The 1st CoC Meeting was convened on 27.03.2020 via video conferencing. The IRP vide letter dated 01.04.2020 appointed 4 Valuers duly registered with IBBI in terms of Regulation 27 of the CIRP Regulations to determine the fair value and liquidation value of the

Corporate Debtor. Further, vide letter dated 01.04.2020 the IRP appointed the transaction Auditor viz., Mr. Sandeep Malhotra who has submitted his report dated 15.09.2020.

4. The 2nd CoC meeting was convened on 19.09.2020 wherein the Eligibility Criteria for inviting Expression of Interest (Form G) and Evaluation Matrix for evaluating Resolution Plans was put to vote and approved with 98.18% voting share. The IRP published Form G on 29.09.2020 in Business Standard (Hindi & English Edition) as well as in the IBBI website, which was re-published on 13.11.2020 and on 10.02.2021 in two newspapers namely Morning Standard (English Edition) and Hari Bhoomi (Hindi Edition).

5. This Authority has passed Orders for extension of the period of CIRP after the applications were filed by the Resolution Professional, which are on record. The 7th CoC Meeting was convened on 20.02.2021 wherein the following resolutions were passed: -

“RESOLVED THAT Pursuant to Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 the Committee of Creditors hereby recommends for the liquidation of Corporate Debtor.”

“RESOLVED FURTHER THAT the Resolution Professional is authorised to file a necessary application before the Adjudicating Authority conveying the decision of the Committee of Creditors to liquidate the Corporate Debtor.”

“RESOLVED FURTHER THAT consent be and is hereby accorded for payment of all expenses to be incurred by the Resolution Professional as CIRP cost including all expenses to be incurred for keeping the Corporate Debtor as going concern.”

6. Further, the Resolution Professional and the members of the CoC made the best estimate of the liquidation cost as there are no or Nil assets of the corporate

Debtor and the entire liquidation cost ought to be contributed by the Financial creditors. Therefore, the following resolutions were passed: -

“RESOLVED THAT approval of CoC be and is hereby accorded for estimated liquidation cost of Rs. 4,20,000/- (Rupees Four Lacs and twenty Thousand Only), details of which were placed on the table of the meeting plus fee of the Liquidator, as may be approved by CoC/Hon'ble NCLT, as the case may be. The CoC also took note of the NIL estimated value of liquid assets of CD.”

“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. 4,20,000/-(Rupees Four Lakh Twenty Thousand Only) plus Liquidators fees as per approved by COC/NCLT/fees payable as per Sub Regulation 4(2) of the BBI (Liquidation Process) Regulation, 2016, as the case may be in proportion to the financial debts owed to them by the CD.”

7. Furthermore, in the meeting the CoC members, explored the possibility of selling the Corporate Debtor as a going concern in terms of Regulation 39C of the CIRP Regulations and passed the resolution as under: -

“RESOLVED THAT approval of CoC be and is hereby accorded that the Liquidator may first explore 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. The Liquidator be and is hereby further authorised to sell the sale assets of the Corporate Debtor on a standalone basis/in slump sale/sale of assets collectively/assets in parcels under Regulation 32 of IBBI (Liquidation Process) Regulations, 2016, as it may deem fit and appropriate.”

8. Further, the CoC passed resolution and ^{ap}proved the appointment and fixation of fees of the Resolution Professional as Liquidator as follows: -

“RESOLVED THAT approval of Committee of Creditors be and is hereby accorded for the appointment of Resolution Professional Mr. Rishabh Chand Lodha

(IBBI Reg No. IBBI/IPA-001/IP/P-01075/2017-2018/11766), as liquidator under Clause (a) and (c) under Regulation 39 (D) of CIRP Regulations, 2016.”

“**RESOLVED THAT** approval of CoC is hereby accorded for payment of fees of Rs. 50,000/- per month plus Applicable GST and out of pocket expenses on actual basis, to the Liquidator under Clause (a), (b) and (c) under Regulation 39 (D) of the CIRP Regulations, 2016.”

“**RESOLVED FURTHER THAT** the above resolution shall become effective from the date of Order of Hon’ble NCLT for the liquidation of M/s. FLPL Logistics Private Limited, Corporate Debtor and appointment of Mr. Rishabh Chand Lodha as liquidator of Corporate Debtor.”

All the above resolutions were put to vote and were approved through the following voting share:

Resolution for voting	Result
Liquidation of the Corporate Debtor and ancillary resolutions	98.08%
Liquidation cost of Rs. 4,20,000/- and ancillary resolutions	74.13%
Sale of corporate Debtor as ‘Going concern’ and ancillary resolutions	74.13%
Appointment of Mr. Rishabh Chand Lodha as Liquidator and ancillary resolutions	74.52%

ORDER

9. In view of the facts and circumstances, this Authority is satisfied that the Application **IA-1261/2021** filed for initiation of Liquidation proceedings against the Corporate Debtor is a fit case for ordering **liquidation** of the Corporate Debtor namely, *FLPL Logistics Pvt Ltd* in the manner laid down in the Chapter III of Part II of IBC, 2016 and is **allowed** with the directions as follows: -

I. This Authority appoints the Resolution Professional **Mr. Rishabh Chand Lodha** who has given written consent to act as a liquidator having Registration No.: IBBI/IPA-001/IP-P010752/2017-2018/11866; Address: 8/28, (3rdFloor), WEA, Abdul Aziz Road, Karol Bagh, New Delhi- 110005, E-mail ID: cirp.flpl@gmail.com

II. **Mr. Rishabh Chand Lodha** is appointed as Liquidator in terms of Section 34 (1) of IBC, 2016 therefore, all the powers of Board of Directors, key Managerial Personnel, and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested with the Liquidator. The Personnel of the Corporate Debtor are hereby directed to extend all cooperation to the Liquidator as may be required for managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as Liquidator will charge fees for the conduct of liquidation proceedings as decided the CoC, failing which in the proportion to the value of the liquidation estate assets as specified under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of IBC, 2016.

III. **Mr. Rishabh Chand Lodha** 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.

IV. Since this Liquidation Order has been passed, no suit or other legal proceedings shall be initiated by or against the corporate Debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub section 6 of the Section 33 of the Code

V. This Authority makes it clear that Para (V) herein above shall not apply to legal proceedings in relation to such transactions as notified by Central government in consultation with any financial sector regulator.

VI. This liquidation Order shall be deemed to be the notice of discharge to the officers, employees, workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

VII. The Registry and the Counsel is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana, to the Insolvency and Bankruptcy Board of India

VIII. The Order of Moratorium passed under Section 14 of the IBC, 2016 shall cease to have its effect from the date of the order, and that a fresh Moratorium under Section 33(5) of IBC, 2016 shall commence.

IX. 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 regulations.

X. The Liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (I) of the Code.

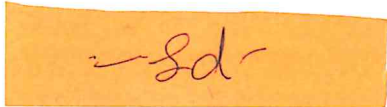
XI. The Liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

XII. 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 Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

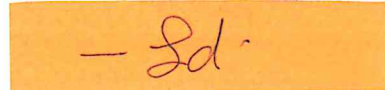
XIII. Copy of this Order shall be sent by the Registry to the Counsel to financial creditors, corporate debtor, and the Liquidator for information and necessary action.

10. In terms of the above IA-1261/2021 filed in CP (IB)-2976(ND)/2019 is **allowed.**

11. The Order is pronounced.



NARENDER KUMAR BHOLA
Member (Technical)



CH. MOHD. SHARIEF TARIQ
Member (Judicial)