

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-II

(IB)-702(ND)/2018
IA/2034/2021

IN THE MATTER OF:

**NAND KISHORE GAUTAM
SUPER PRINT SERVICES**

...APPLICANT

VERSUS

M/S. XALTA FOOD AND BEVERAGES PVT. LTD.

...CORPORATE DEBTOR

AND IN THE MATTER OF:

**SH. NAVEEN KUMAR JAIN
RESOLUTION PROFESSIONAL FOR
(M/S XALTA FOOD AND BEVERAGES PVT.LTD.)
HAVING COMMUNICATION ADDRESS AT:
F-1, MILAP NAGAR, UTTAM NAGAR
NEW DELHI-110059**

...RESOLUTION PROFESSIONAL/APPLICANT

SECTION: 60(5) of IBC, 2016 r/w Rule 11 of the NCLT Rules, 2016

Order Delivered on : 11.06.2021

CORAM:

SH. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (JUDICIAL)

SH. L. N. GUPTA, HON'BLE MEMBER (TECHNICAL)

PRESENT:

Mr. Abhishek Anand and Mr. Kunal Godhwani Advocates for Ex-directors of Corporate Debtor; Mr. Naveen Kumar Jain RP and Applicant.

ORDER

Per Sh. Abni Ranjan Kumar Sinha (Member Judicial)

This application is preferred on behalf of the Resolution Professional under Section 60(5) of the Insolvency & Bankruptcy Code, 2016, (hereinafter

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referred to as the "Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016 praying for the following reliefs:

- a.** Issue direction to Applicant/Resolution Professional as to whether the Expression of Interest/Resolution Plan of Resolution Applicant M/s Hindustan Aqua Private Limited be considered by the RP and COC.
- b.** In the event if the Adjudicating Authority directs the Resolution Professional to consider the EOI/Resolution Plan of the M/s Hindustan Aqua Private Limited, it is prayed that the Adjudicating Authority be pleased to give directions to the RP to call for meeting of Committee of Creditors for this purpose and allow 60 days' time to the RP / COC for necessary proceedings.
- c.** Alternatively, the Adjudicating Authority may exclude the litigation period from 16.05.2019 in view of proviso 12 (3) of I & B Code (Amended act) 2019 dated 06.08.2019 for 60 days so that Committee of Creditors may take appropriate decision in the matter and conclude the CIRP under the proviso.
- d.** and pass such other as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

2. The brief facts, as averred by the applicant, leading to filing of the instant application are as follows:

- i.** That the CIRP was initiated against the Corporate Debtor vide order dt. 25.07.2018 and the applicant herein was appointed as the Interim Resolution Professional. Subsequently, the Applicant was confirmed as the Resolution Professional ("RP"). The initial 180 days period of CIRP expired on 20.01.2019, which was extended by a further period of 90 days up to 20.04.2019 vide order dt. 15.01.2019. Thereafter, a period of 41 days was further



excluded from the CIRP period vide order dt. 12.04.2019. The extended CIRP period has expired on 31.05.2019 without any resolution plan being approved by the Committee of Creditors ("CoC").

- ii. List of the important dates and events (page 5 to 9 of the brief synopsis) are given below: -

List of Important Dates and Events

Sl. No	Date	Event
1.	25th July, 2018	Commencement of CIRP and appointment of IRP on application under section 9 of I & B Code by M/s Super Print Services through its Sole Proprietor.
2.	29th July, 2018	Publication of Public Announcement in compliance to section 15 of I & B Code calling for claims from Creditors of Corporate Debtor.
3.	08 th August, 2018	Last date for submission of Claims.

4.	15 th August, 2018	Verification of Claims of Financial Creditors Under Regulation 13(1).
5.	17 th August, 2018	Filing of Report Certifying Constitution of CoC.
6.	24 th August, 2018	First Meeting of the CoC
7.	7 th September, 2018	Appointment of two Registered Valuers
8.	16 th September, 2018	Submission of Information Memorandum to CoC
9.	08 th , October, 2018	Invitation of EoI & Publication of Form G
10.	16 th November, 2018	Final List of Resolution Applicants
11.	06 th November, 2018	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants.
12	06 th December, 2018	Last Date of Submission of Resolution Plan.
13	06 th December 2018	Receipt of Resolution Plan from Promoters cum Members of Suspended Board, Mr. Vishnu Mittal and Mr. Heavent Sudhir Malhotra in their Individual Capacity.
14	On various dates from 30/01/2019 till 31/05/2019.	Submission of Forensic Audit and Transactional Review report to Hon'ble Adjudicating Authority along with avoidance Applications under section 45, 43 and 66



15	12 th April 2019	Receipt of 29A Examination Report from Consultant CA wherein Promoters cum RA were found ineligible under section 29A.
16	15 th April, 2019	Notice of In-eligibility under section 29A issued by RP to the Promoters along with copy of report for clarification/ reply/ submission however no reply / clarification received in the matter.
17	20 th April 2019	COC with majority vote of 72.88% approved the rejection of the Resolution Applicant / Promoters under 9A disability in its 12 th meeting, decision of the COC shared with the Promoter cum Resolution Applicant.
18	26 th April 2019	On Approval of COC, a fresh Form G published by extending the last date of EOI to 26 th April, 2019. One EOI received thereafter however no Resolution Plan received till last date of receipt of Resolution Plan or date of expiry of CIRP.
19	16 th May 2019	I.A 607 /2019 filed by Suspended Board of Directors cum RA for declaring their eligibility under section 29A against the decision of the Committee of Creditors.
20	27 th May 2019	14th meeting of the COC without passing any resolution of liquidation and but majority decision as "Let

		Hon'ble Tribunal to decide the liquidation proceedings in accordance with section 33 (1) (a) of the code"
21	31 st May 2019	Last date of the CIRP after all extension and exclusions.
22	14 th June 2019	I.A / CA No. 731 filed by Resolution Professional u/s 33 of the code on expiry of CIRP and allowed by Hon'ble Adjudicating Authority pending appointment of Liquidator.
23	04 th July 2019	Revised order in I.A 731/2019 of Liquidation for disposal of I.A 607/2019 before liquidation be directed.
24	19 th Sept 2019	Part Argument heard in CA 607/2019
25	14 th October 2019	Part Argument heard in CA 607/2019
26	30 th October 2019	Part Argument heard in CA 607/2019
27	31 st October 2019 till 18 th Feb 2020	Adjournment of final arguments in CA 607/2019 due to various reasons including request made by Applicant Promoters
28	18 th Feb, 2020	Final disposal of CA 607 /2019 listed
29	4 th March 2020	CA 607 /2019 adjourned to 01.04.2020 due to Paucity of Time.
30	24 th March 2020	Lockdown imposed in country due to spread of pandemic Covid 19 and all pending matters were adjourned to

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		extended dates as per decision of Hon'ble Tribunal.
31	01 st March 2021	I.A 1163/2021 filed by Resolution Professional for Early Hearing of CA/IA 607 and pass appropriate orders in the matter which is pending for disposal before this Hon'ble Tribunal.
32	25 th March 2021	Unsolicited Expression of Interest received from M/s Hindustan Aqua Private Limited
33	13 th April 2021	Unsolicited Resolution Plan received from M/s Hindustan Aqua Private Limited
34	30 th April 2021	I.A 2034/2021 filed by Resolution Professional under section 60(5) read with Rule 11 for appropriate direction to Resolution Professional with respect to Resolution Application of M/s Hindustan Aqua Private
35	19 th April 2021	Pursuant to order dated 19.05.2021, this synopsis is being filed.

MANITEN KUMAR JAIN

iii. That the applicant/RP invited Expression of Interest vide Form-G dated 08.10.2018, which attracted only one resolution plan from the Promoters cum Directors of the Corporate Debtor. However, they were disqualified under the provisions of Section 29A of the Code vide Resolution of CoC dt.20.04.2019. The said decision of the CoC was challenged by the said applicant, which is currently pending adjudication before this Tribunal in C.A. No. 607/2019 dated 16.05.2019.

iv. That in the meantime, upon expiry of the CIRP period and in view of the no decision taken by the CoC, the application of liquidation bearing C.A. No. 731/2019 was filed by the applicant/RP before this authority, which was partially

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allowed vide order dt. 14.06.2019. The relevant extract of the said order is reproduced below:

- v.** *"CA 731/2019 has been filed praying for directions to proceed towards liquidation.*
- vi.** *Given the facts and circumstances, this application is allowed.*
- vii.** *The assets of the Corporate Debtor be put for liquidation as no resolution plan has been received and 270 days are also over. Ld. RP has proposed his own name as the liquidator in this case as no decision has been taken by the COC in this respect. The same shall be taken up for consideration on the next date of hearing.*
- viii.** *To come up on 4th July, 2019."*
- ix.** *That, however, vide order dt. 04.07.2019, the said liquidation process was kept in abeyance and it was directed as under :*
- x.** *"CA 827/2019 has been filed by the Resolution Applicant and the Suspended Board of Directors. The grievance of the applicant is that vide order dated 03.06.2019, the matter had been re-notified for further consideration to 8th July, 2019. Prior to the said date it appears that the case had been taken on 14.06.2019 agitating non-reimbursement of the CIR cost by two of the major financial creditors. It was also mentioned that CA 731/2019 had been filed praying for liquidation. Though liquidation was not confirmed for want of the consent of a liquidator, it is now being agitated by the applicant that despite a resolution plan having been proposed which was to be considered and disposed of on 8th July, 2019, due notice was issued to them for liquidation. Keeping in view the facts and circumstances*



of the case, the applicant has some merit in his submission. It would be in the interest of justice to ensure that the pending application is first disposed off and then liquidation be directed.”

- xi.** That the Applicant herein continues to discharge his duties as the resolution professional in accordance with the provisions of Section 23 (1) of the Code.
- xii.** That on 25.03.2021, the Applicant received an email communication/Letter from M/s Hindustan Aqua Private Limited with Expression of Interest along with documents for submission of resolution plan in the matter.
- xiii.** That the Applicant on 30.03.2021 replied to the said Resolution Applicant declining the EOI on the ground that the timelines for submission of EOI or Resolution Plan are already over and proceedings are going on before Hon'ble Adjudicating Authority for necessary orders under section 33 of the Code. That on 30.03.2021, the Resolution Applicant M/s Hindustan Aqua Private Limited again requested for consideration of their Expression of Interest in the matter for submission of Resolution Plan. That on 13.04.2021, the Applicant has also received an unsolicited Resolution Plan from M/s Hindustan Aqua Private Limited.
- xiv.** That till date the Corporate Debtor is neither resolved nor liquidation proceedings have been initiated due to ongoing litigation in the matter, which has deteriorated the liquidation value further along with adding financial burden of lease rent of the Factory Premises.



xv. That proviso 12 (3) as per I& B Code (Amended Act) 2019 enacted on 06.08.2019 has given a period of another 90 days from the date of such amended act. That prior to filing of Liquidation Application, no such provision of 90 days period in concluding CIRP was available to the Applicant. It became available to the Applicant only after enactment dated 06.08.2019 and from that date the Corporate Debtor has been facing litigation. Neither the CIRP is concluded nor the Liquidation process is initiated.

xvi. That in view of the judgment of the Hon'ble Supreme Court in the matter of *Committee of Creditors of Essar Steel v. Satish Kumar Gupta 2019 SCC Online SC 1478*, para. 108. In this case, the Court held that the timelines prescribed by Section 12 are not mandatory.

xvii. That in Committee of Creditors of Essar Steel (para.108), the Supreme Court also held that this Tribunal had the power to extend the CIRP period if certain specific conditions were satisfied on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the insolvency resolution process beyond 330 days, and that it would be in the interest of all stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation.

3. We have heard the Ld. Counsel for the applicant and perused the averments made in the application.

4. Ld. Counsel for the applicant has also submitted the written submissions and the averments made in the written submissions are almost similar/same to the facts mentioned in the application.



5. Ld. Counsel for the applicant submitted that since the liquidator has not been appointed in pursuant of the order dated 14.06.2019 and the application relating to that and other applications relating to the matter are pending for disposal and that is the reason, the present application has been filed by the applicant seeking necessary direction regarding the consideration of the Expression of Interest/Resolution Plan of Resolution Applicant i.e M/s Hindustan Aqua Private Limited.

6. He further submitted that if the applicant is permitted to consider the Resolution Plan submitted by the Resolution Applicant, the applicant may also be permitted to convene a meeting of the CoC and seek an extension of 60 days after excluding the period of litigation.

7. He further submitted that tili date, liquidation proceedings are not initiated in view of the revised order of the Adjudicating Authority dated 04.07.2019. He prays that either the applicant may be permitted to consider the Resolution Plan submitted by the proposed Resolution applicant or the liquidation proceedings be initiated, so that the matter gets concluded.

8. In the light of the submissions raised on behalf of the applicant, now we consider the prayers made in the application.

9. On perusal of the list of dates and events mentioned above, we notice that in this matter, the CIRP was initiated on 25.07.2018 and the final list of resolution applicants was notified on 16.11.2018 and it is further seen that the last date for submission of the Resolution Plan was 06.12.2018.

10. We further notice that the CoC in its meeting dated 20.04.2019 by majority vote of 72.88% rejected the Resolution Plan submitted by Resolution Applicant/Promoters due to their disability under section 29A of the IBC and thereafter, on 26.04.2019, a fresh Form G was published by extending the last date of EOI to 26.04.2019 but no Resolution Plan was received till the last date of receipt of the Resolution Plan or date of expiry of CIRP.

11. It is further seen that in the meeting dated 27.05.2019, the CoC passed a resolution **“Let Hon’ble Tribunal to decide the liquidation proceedings in accordance with Section 33(1) (a) of the Code.”** and accordingly, the RP has filed an application bearing CA No. 731/2019 under Section 33 of the IBC, 2016, on expiry of the period of CIRP. This Adjudicating Authority vide order dated 14.06.2019 passed the following order (at page 23 and 24 of the Application): -

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NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

COARM:

(IB)-702/ND/2018

PRESENT: DR. V.K. SUBBURAJ
HON'BLE MEMBER(T)

MS. INA MALHOTRA
HON'BLE MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW
DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON
14.06.2019

NAME OF THE COMPANY: Super Print Services V/s. M/s. Xalta Food
and Beverages Pvt.Ltd.

SECTION OF THE COMPANIES ACT: 9 of IBC, 2016

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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Present for the Petitioner:	Mr. Kshitij Sharda, Mr. Shrivam Narang and Mr. Harsh Sinha, Advocates			
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Present for the Respondent:	Mr. Pawan Kumar, Advocate for RP Mr. Naveen Kumar Jain, RP Ms. Deepika Rahav, Advocate			
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ORDER

Two members of the COC are present in court today pursuant to the notice issued to Reliance Capital Ltd. and Tamilnad Mercantile Bank. Both these Financial Creditors undertake to pay the proportionate CIR cost which have been incurred during the period of resolution. On receipt of money, the RP shall ensure proportionate amount is disbursed at rental to the lessor.

The two other financial claimants have neither appeared before this Bench nor given any undertaking to contribute towards the cost of the CIR process. It is observed that throughout the resolution process, they have participated as the members of the COC. Their inaction in contribution towards the cost



is highly deprecated and disentitles their claims to be considered. An application has been filed under Section 33 of the Code given the fact that no resolution is possible and also 270 days are also over.

CA 731/2019 has been filed praying for directions to proceed towards liquidation.

Given the facts and circumstances, this application is allowed.

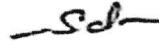
The assets of the Corporate Debtor be put for liquidation as no resolution plan has been received and 270 days are also over.

Ld. RP has proposed his own name as the liquidator in this case as no decision has been taken by the COC in this respect. The same shall be taken up for consideration on the next date of hearing.

To come up on 4th July, 2019.



(V.K. Subbura)
Member (T)



(Ina Malhotra)
Member (J)

12. We further notice that another CA No. 827/2019 was listed for hearing on 04.07.2019 and in the course of hearing of that matter, a reference was made in respect of the pendency of CA No. 731/2019 and in that proceeding, the Bench has passed the following order:

“.....Keeping in view the facts and circumstances of the case, the applicant has some merit in his submission. It would be in the interest of justice to ensure that the pending application is first disposed off and then liquidation be directed.....”



13. On the basis of that order, the applicant has prayed that the liquidation order has not been passed and the application is still pending for liquidation.

14. At this juncture, we would like to refer the provisions contained under Section 33 and 34 of the IBC, 2016, which are quoted below: -

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 percent 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).

Explanation- For the purposes of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.

(3) Where the resolution plan approved by the Adjudicating Authority under section 31 or under sub-section (1) of section 54L, is contravened by the concerned corporate debtor, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(4) On receipt of an application under sub-section (3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:



Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority.

(6) The provisions of sub-section (5) shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(7) The order for liquidation under this section shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.

Section 34. Appointment of liquidator and fee to be paid.

(1) Where the Adjudicating Authority passes an order for liquidation of the corporate debtor under section 33, the resolution professional appointed for the corporate insolvency resolution process under Chapter II shall Chapter II or for the pre-packaged insolvency resolution process under Chapter III-A shall, subject to submission of a written consent by the resolution professional to the Adjudicating Authority in specified form act as the liquidator for the purposes of liquidation unless replaced by the Adjudicating Authority under sub-section (4).

(2) On the appointment of a liquidator under this section, all 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.



(3) 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 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.

(4) The Adjudicating Authority shall by order replace the resolution professional, if-

(a) the resolution plan submitted by the resolution professional under section 30 was rejected for failure to meet the requirements mentioned in sub-section (2) of section 30; or

(b) the Board recommends the replacement of a resolution professional to the Adjudicating Authority for reasons to be recorded in writing in writing; or

(c) the resolution professional fails to submit written consent under sub-section (1)

(5) For the purposes of clause (a) and (c) clause (a) of sub-section (4), the Adjudicating Authority may direct the Board to propose the name of another insolvency professional to be appointed as a liquidator.

(6) The Board shall propose the name of another insolvency professional along with written consent from the insolvency professional in the specified form within ten days of the direction issued by the Adjudicating Authority under sub-section (5).



(7) The Adjudicating Authority shall, on receipt of the proposal of the Board for the appointment of an insolvency professional as liquidator, by an order appoint such insolvency professional as the liquidator.

(8) An insolvency professional proposed to be appointed as a liquidator shall charge such fee for the conduct of the liquidation proceedings and in such proportion to the value of the liquidation estate assets, as may be specified by the Board.

(9) The fees for the conduct of the liquidation proceedings under sub-section (8) shall be paid to the liquidator from the proceeds of the liquidation estate under section 53.

15. When we consider both the provisions together, it is seen that under Section 33 of the IBC, an Adjudicating Authority is vested with the power to pass the liquidation order. Whereas under Section 34 of the IBC, 2016, the Adjudicating Authority is empowered to appoint the Liquidator.

16. In the light of the aforesaid provisions, when we peruse the order passed by this Adjudicating Authority on 14.06.2019, we find that the application filed by the Resolution Professional for liquidation under Section 33 of the IBC, 2016 has already been allowed. Vide that Order, this Adjudicating Authority held that **“The assets of the Corporate Debtor be put for liquidation as no resolution plan has been received and 270 days are also over.”** The matter is pending only for appointment of the RP as a liquidator as no decision has been taken by the CoC in this respect.

17. We have referred to the provision for the appointment of liquidator and as per the provision, whenever the Adjudicating Authority pass an order for liquidation of the corporate debtor under section 33, the Resolution Professional appointed for the corporate insolvency resolution process under



Chapter II shall, subject to submission of a written consent by the Resolution Professional to the Adjudicatory Authority in specified form, act as the liquidator for the purposes of liquidation unless replaced by the Adjudicating Authority under sub-section (4) Section 34 of IBC 2016.

18. Now, in the light of the aforesaid provision, we examine the order dated 14.06.2019,

19. At this juncture, we again go through the order dated 14.06.2019 passed by this Adjudicating Authority in CA-731/2019 which reveals that the RP had proposed his own name to act as a liquidator in this case. Therefore, the RP had also given his consent. Hence, in view of Section 34(1) of the IBC, 2016, he shall act as a liquidator unless and until replaced by the Adjudicating Authority under Sub Section 4 of Section 34 of the IBC, 2016. And it is also apparent from the order dated 14.06.2019, the Adjudicating Authority has not passed any order under Sub Section 4 of Section 34 of the IBC, 2016 and the matter was deferred for next date.

20. In view of the aforesaid discussion, we are of the considered view that so far as the liquidation order under Section 33 (1) of the IBC, 2016 is concerned, the first part of the order dated 14.06.2019 shows that the order of liquidation was passed on two grounds i.e. no resolution plan was received and the period of CIRP was already over. Hence, in view of Section 34(1) of the IBC, 2016, unless the Resolution Professional is replaced under Sub Section 4 of Section 34 of IBC, 2016, he shall continue to act as Liquidator.

21. Therefore, we are of the considered view that so far as the order dated 04.07.2019 passed in CA/827/2019 is concerned. From the perusal of that order, we notice that the hearing on the point of confirmation and appointment of liquidator under Section 34(4) of the IBC, 2016 pending for consideration before this Adjudicating Authority was deferred. Nor the order



dated 14.06.2019, by which the liquidation order was passed, has been recalled.

22. It is also the admitted position of law that there is no power for review of order under the IBC and once the liquidation order is passed by this Adjudicating Authority on 14.06.2019, there is no scope to recall. The subsequent order dated 04.07.2019 cannot be read as an order of recall of the order of liquidation, rather it can be treated as an order which deferred the matter that was for consideration i.e., confirmation of the liquidator under Section 34(4) of the IBC, 2016 only.

23. Hence, we find no force in the contention of the Applicant and no reason to give any direction to the applicant or the COC in respect of the Expression of Interest/Resolution Plan of Resolution Applicant M/s Hindustan Aqua Private Limited received by the Resolution Professional. Therefore, the prayer of the Applicant is hereby rejected.

24. Accordingly, the present application i.e. IA/2034/2021 stands Dismissed.

Sd-

(L.N. GUPTA)
Member (T)

Sd-
11.06.2021

(ABNI RANJAN KUMAR SINHA)
Member (J)

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

Item No.108
(IB)-702/ND/2018
New-IA/2543/2021

IN THE MATTER OF:

Super Print Services

... **Applicant/Petitioner**

Versus

M/s. Xalta Food and Beverages Pvt. Ltd.

... **Respondent**

Under Section: 9 of IBC, 2016

Order delivered on 11.06.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA,
HON'BLE MEMBER (J)

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

PRESENT:

Mr. Abhishek Anand Adv. & Mr. Mohak Sharma Adv. for Ex-directors, Mr. Naveen Kumar Jain - Liquidator in Person

ORDER

IA-2543/2021: By filing this IA, the Applicant has prayed for exclusion of period from 15th June, 2019 to 9th June, 2021 in computing the period of the liquidation of the Corporate Debtor. Heard Ld. Counsel appearing for the Applicant/Liquidator and perused the averments made in the application.

In the course of hearing, Ld. Counsel appearing for the Liquidator submitted although he has prayed for exclusion of the period from 15th June, 2019 to 9th June, 2021 but at present, he is pressing for exclusion of periods only on the ground of lockdowns imposed by the Central & State Government, from 24th March, 2020 to 30th June, 2020 and later, from 20th April, 2021 to 6th June, 2021 by the State Government of Delhi. Since in other matters too, we have excluded the period on the ground of lockdown, by applying the same principle, we hereby exclude the period from 24th March, 2020 to 30th June, 2020 (i.e. 97 days) and from 20th April, 2021 to 6th June, 2021 (i.e. 48 days), while calculating the period of liquidation.

With this, the present application stands disposed of.

Sd/-
(L.N. GUPTA)
MEMBER (T)

Sd/-
(ABNI RANJAN KUMAR SINHA)
MEMBER (J)