

National Company Law Tribunal

Allahabad Bench

CP NO. (IB) 60/ALD/2017

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 21.12.2017

NAME OF THE COMPANY: Rohendra Singh vs Wegilant Solutions Pvt Ltd

SECTION OF THE COMPANIES ACT/I & B CODE: 2 of I & B code of 2016

Sl. NO.	Name	Designation	Representation	Signature
		<u>CP NO.(IB)60/ALD/2017</u>		

1.

2.

In the present matter the Resolution Professional (RP) earlier has recommended for liquidation of the Corporate Debtor Company because of not getting success in bringing a resolution plan for the company under the CIRP. It is further reported by the Financial Creditor/single member Committee of Creditor through its letter dated 11.02.2017 that it does not intend to bear any financial burden or liability to formulate a resolution plan for the Corporate Debtor Company. By taking into consideration these circumstances, there seems no possibility for a resolution for the company under CIRP. Further, the Committee of Creditors is consulted with its single member M/s Quick Heal Ltd. who did not agree for a resolution plan for the Corporate Debtor Company. Therefore, this Court is inclined to accept the recommendation made by the RP for liquidation of the Corporate Debtor Company.

Having perused the documents and averments made by Resolution Professional, Sh. Dinesh Kumar Sharma, in these circumstances as stated above, we feel that there are sufficient reasons to initiate liquidation process in respect of Corporate Debtor Company under the provision of Section 33 of the Insolvency and Bankruptcy Code, 2016.

The relevant provision of Section 33 of the Insolvency & Bankruptcy Code, 2016 reads as under:

33. (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 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).
- (3) Where the resolution plan approved by the Adjudicating Authority 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. Appeal Initiation of liquidation.
- (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.

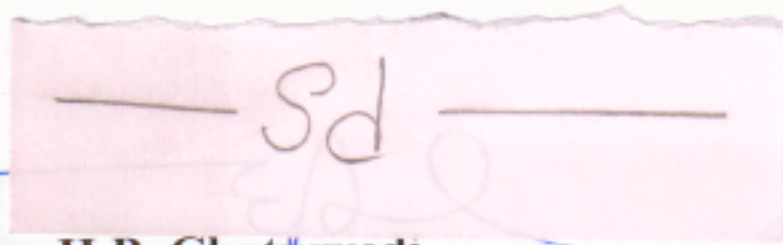
- (7) The order for liquidation under this section shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.

By following the above stated provision and being satisfied with the reason given by the RP and COC for recommending liquidation, we allow the present petition and pass an order under Section 33(2) of the I & B Code for liquidation of the Corporate Debtor Company with the following directions:

1. That Sh. Dinesh Kumar Sharma, RP appointed for the Corporate Insolvency Resolution Process under Chapter II of the Code to be continued with and to act further as a liquidator for the purpose of liquidation in pursuant to Section 34(1) of the Insolvency and Bankruptcy Code, 2016.
2. 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 to be vested in the Liquidator.
3. Issue a public announcement declaring that the Corporate Debtor Company is under liquidation, such announcement to be made within 5 days from the receipt of certified copy of this order.
4. A copy of this order to be sent to the Registrar of Companies, Kanpur.
5. The present application is allowed and stands disposed of accordingly.

Dated: 21.12.2017

Typed by:
Kavya Prakash Srivastava
(Stenographer)


H.P. Chaturvedi,
Member (Judicial)