

**THE NATIONAL COMPANY LAW TRIBUNAL**

**COURT VI, NEW DELHI**

**I.A. 3019/2022**

**IN**

**Company Petition No. (IB) – 151/ND/2021**

*Under Section 33(2) r/w section 60(5) of the Insolvency and Bankruptcy Code, 2016 for initiating liquidation process of Corporate Debtor and to pass other necessary directions.*

**In the matter of Section 10 of IBC, 2016:**

VRJ Traders Private Limited

.... Corporate Debtor

**And in the matter of**

Alok Kumar Kuchhal  
Resolution Professional of CD  
Having Office at  
C-154, Sector 51,  
Noida, UP- 201301

...Applicant

**CORAM:**

**SHRI P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

I.A. 3019/2022  
In  
CP IB – 151/ND/2021

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For the Applicant: Mr. Alok Kumar Kuchhal, RP in person

**ORDER**

**PER- RAHUL BHATNAGAR, MEMBER (JUDICIAL)**

**Order Pronounced on: 13.09.2022**

1. This is an application filed by the Resolution Professional, Mr. Alok Kumar Kuchhal under Section 33(2) read with section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC, 2016/Code") for issuance of directions for liquidation of Corporate Debtor, M/s. VRJ Traders Pvt. Ltd.
2. The facts in brief stated in the application is as under: -
  - I. That, an application under section 10 of IBC, 2016 was filed by the Corporate Debtor (Hereinafter referred to as "CD") for initiation of Corporate Insolvency Resolution Process against itself which was admitted by this Hon'ble Tribunal vide order dated 22.12.2021 and the applicant i.e. Mr. Alok Kumar Kuchhal was appointed as Interim Resolution Professional in the matter and subsequently confirmed as Resolution Professional vide order dated 24.05.2022.
  - II. That after appointment, the IRP had published the

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public announcement but till the last date submission of claims no claimant has come up and submitted their claim apart from one claimant who was a related party to the Corporate Debtor hence, the said claimant cannot be a part of CoC and the IRP was unable to constitute the CoC. Subsequently, the IRP, moved an application before this Tribunal seeking directions for formation of CoC. The Bench had asked him to explore the possibility to form CoC and in this connection he is directed to reissue public announcement and after the subsequent public announcement two creditors had come forward and submitted their claim.

- III. That, in the First CoC meeting, the IRP was confirmed as RP and later the same was confirmed by this Tribunal vide order dated 24.05.2022.
- IV. That, the applicant had met with suspended management to discuss the possibility of any sort of recovery from the assets of the Corporate Debtor and also to discuss about the possibility of revival of Corporate Debtor but after discussion with the suspended management and after analyzing the financial records of the Corporate Debtor, the applicant found that the chances of revival of Corporate Debtor is negligible which fact was placed by the applicant before the members of Committee of Creditors in meeting held on 04.06.2022 for their consideration and forthwith

decision thereof. CoC also opined that there seems no possibility for revival of Corporate Debtor and accordingly CoC members decided to liquidate the Corporate Debtor in terms of provisions of IBC and authorized the Applicant to move an appropriate application before the Bench for initiation of liquidation. The extract of the resolution of 2<sup>nd</sup> COC meeting passed is as follows:

*“Resolved that in accordance with the provisions of Section 33(2) read with Relevant Regulations of 39 under Insolvency Resolution Process for Corporate Persons Regulations, the approval of the Committee of Creditors be and is hereby granted to liquidate the affairs of the company.”*

*“Resolved further that, the resolution professional be and is hereby authorized to communicate the decision of the committee of creditors to the Adjudicating Authority through filing of the relevant application on behalf of committee of creditors and further take appropriate actions in the matter as may be deemed appropriate.”*

- V. That, in the said meeting of Committee of Creditors i.e. 2<sup>nd</sup> CoC meeting, the CoC asked Resolution Professional i.e. Mr. Alok Kumar Kuchhal to act as Liquidator and accordingly RP placed his consent to act as Liquidator on the same fees on which he was appointed as

Resolution Professional or for the fee as defined under sub-regulation (b) of sub-regulation (1) of Regulation 4 of IBBI (Liquidation Process) Regulations, 2016. Thereafter 100% of the members present and voted had assented for appointment of RP i.e. Mr. Alok Kumar Kuchhal as Liquidator at the fee proposed. The extract of the resolution passed in the meeting for appointment of Liquidator is as follows:

*“Resolved that Mr. Alok Kumar Kuchhal be and is hereby appointed as the Liquidator of the Corporate Debtor i.e. VRJ Traders Private Limited.*

*“Resolved further that in pursuant to Regulation 4 of IBBI (Liquidation Process) Regulations, 2016, the Liquidator shall be entitled to the fees as defined under sub-regulation (1) of Regulation 4 of IBBI (Liquidation Proceeding) Regulations, 2015.”*

VI. That, the present application is filed by the Resolution Professional, Mr. Alok Kumar Kuchhal at the instance of Committee of Creditors as per the provisions of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for initiation of liquidation of Corporate Debtor and for confirmation of appointment of Resolution Professional

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as Liquidator of the Corporate Debtor.

VII. It is submitted that the present application is bonafide and filed in the interest of justice. It would be just and fair for this Tribunal to pass the necessary directions on the application sought herein, which will allow the Applicant/RP to discharge its duties in accordance with law.

VIII. That, in view of the facts as stated hereinabove, the applicant prayed for the following relief(s).

a) *Pass an order of initiation of liquidation of the Corporate Debtor i.e. VRJ Traders Private Limited.*

b) *To confirm the appointment and fees of Mr. Alok Kumar Kuchhal, the present Resolution Professional as Liquidator.*

c) *Pass any other order or further order of any nature, direction as this Tribunal may deem fit and proper in the facts and circumstances of the present case.*

3. We have gone through the application filed by the applicant / Resolution Professional. The present application is filed

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under section 33(2) of the Insolvency and Bankruptcy Code.

The CoC has expressed its opinion in the 2<sup>nd</sup> CoC meeting held on 04.06.2022 that there is no scope of revival or selling the company as going concern and that the Corporate Debtor may be liquidated. Therefore, this Tribunal sees no merit in interfering with the commercial wisdom of the CoC.

4. In light of the above, the application is **allowed** by ordering liquidation of the corporate debtor, namely M/s. VRJ Traders Private Limited with following directions:
- a. That Mr. Alok Kumar Kuchhal, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
  - b. That Mr. Alok Kumar Kuchhal, holding Registration No. IBBI/IPA-002/IP-N00114/2017-2018/10284 is appointed as the Liquidator in terms of Section 32(1) of the Code;
  - c. Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;

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- d. 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;
- e. This order shall be deemed to be notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- f. 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 rules and regulations.
- g. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- h. 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.
- i. The Liquidator shall submit 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;

- j. Copy of this order be sent to the financial creditors, corporate debtor, CoC members and the Liquidator for taking necessary steps;
- k. The CoC is directed to pay the remuneration and expenses of the Applicant including that of professional advisors subject to the provisions of IBC Code, 2016 and CIRP Regulations, 2016.
- l. I.A. 3019/ND/2022 filed in IB- 151/ND/2021 is disposed of in terms of the aforesaid terms.

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**(RAHUL BHATNAGAR)  
MEMBER (TECHNICAL)**

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MEMBER (JUDICIAL)**