

**THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A.3558/2020
IN
Company Petition No. (IB) – 867 (PB) /2019**

*Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for
liquidation of the corporate debtor*

In the matter of:

S. A. CONSULTANTS & FORWARDERS PVT. LTD.

.... PETITIONER/
OPERATIONAL CREDITOR

VERSUS

CARGO PLANNERS LIMITED

..... CORPORATE DEBTOR

In the matter of:

DEEPIKA BHUGRA PRASAD

.... Applicant (RP)

VERSUS

SHIKHAR CHANDRA JAIN & ORS.

.... Respondent

Order Pronounced on : 08.01.2021

CORAM:

**SHRI. B.S.V PRAKASH KUMAR,
HON'BLE ACTG. PRESIDENT
SHRI. HEMANT KUMAR SARANGI,
HON'BLE MEMBER (TECHNICAL)**

For the RP : Mr. Kanishk Khetan, Adv

ORDER

PER- HEMANT KUMAR SARANGI, MEMBER (T)

1. This is an application filed by the Resolution Professional, under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation to Corporate Debtor, M/s. Cargo Planners Limited.
2. The facts in brief are that one of the Financial Creditors had filed an application under Section 7 of the Code bearing number IB- 867 (PB)/2019 for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 08.08.2019 initiating CIRP against the Corporate Debtor and there in, appointed Mr. Ashok Kumar Juneja, as the Interim Resolution Professional (IRP).
3. Thereafter, the Applicant had issued public announcement in Form-A, which was published in 'The Financial Express' (English) and 'Jansatta' (Hindi), both NCR editions on 11.08.2019, calling on the creditors to submit their proofs on or before 23.08.2019. On receipt of claims and their verification / collation, the Committee of Creditors (CoC) was constituted by the Applicant. The said CoC in its first meeting held on 07.09.2019, decided and resolved for the appointment of the applicant, Mrs. Deepika Bhugra Prasad, as the Resolution Professional.

4. Further, during the process of CIRP the Expression of Interest (“EoI”), was issued and published on 24.10.2019, wherein the last date of submission of EoI was 08.11.2019. Till the last date, only one EoI was received, which was submitted by Mr. Shikhar Chandra Jain Respondent No. 1. However, another applicant, namely, Durgesh Merchants Limited expressed their interest vide email dated 27.11.2019.
5. In the third meeting of CoC, held on 05.12.2019, the RP informed the members of the receipt of the EOI from Mr. Shikhar Chandra Jain, Respondent No. 1 and about the email from Durgesh Merchants Limited dated 27.11.2019. Therefore, a resolution was put before the members of the CoC for publication of the Form G of the Corporate Debtor, with the last date of submission of EoI extended till 12.12.2019. However, the resolution failed and hence the Form G could not be published again.
6. In the fourth meeting of the CoC, held on 15.01.2020. The RP informed the members that as mandated by Regulation 27 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Debtor) Regulations, 2016, the following had been appointed to conduct the valuation of the assets of the Corporate Debtor:

Name of the Valuer	Class of Assets	IBBI Registration Number	Professional Fee
Mr. Alok Kaushik	Plant and	IBBI/RV/05/2018	Rs.50,000 plus

	Machinery	/10085	out of pocket expenses and applicable taxes
Mr. Naveen Singh	Securities and Financial Assets	IBBI/RV/06/2019 /10662	Rs. 28,000 plus out of pocket expenses and applicable taxes
Mr. Prateek Mittal	Securities and Financial Assets	IBBI/RV/05/2018 /10021	Rs. 40,000 plus out of pocket expenses and applicable taxes
Mr. Ranjeet Singh	Plant and Machinery	IBBI/RV/02/2019 /10568	Rs. 48,000 Plus out of pocket expenses and applicable taxes

7. As the CIRP period was ending on 04.02.2020, the applicant as the RP had called for another CoC meeting, being the fifth meeting. In the said meeting it was suggested by the members of the CoC inter-alia, for seeking extension of CIRP period by 30 days beyond 180 days. Accordingly, the said resolution was approved by 99.28% of members present by ballot voting and as per the final compiled result of voting after conclusion of e-voting; the resolution was approved by the CoC by 99.28% of voting share in favour. This bench by its order dated 10.02.2020, allowed the application and granted extension of time of 30 days beyond 05.02.2020.

8. The valuation summary as submitted by the applicant is as follows:

Plant and Machinery Valuation

S. No.	Name of Valuer	Fair Value (in Rs.)	Liquidation Value (in Rs.)
1.	Mr. Ranjeet Singh	28,35,480	24,55,958
2.	Mr. Alok Kaushik	28,83,882	22,48,739

Average Value

28,59,681

23,52,349

Financial Assets Valuation

S.No	Name of Valuer	Fair Value (in Rs.)	Liquidation Value (in Rs.)
1.	Mr. Naveen Singhal	2,53,70,083	2,38,98,273
2.	Mr. Prateek Mittal	2,81,76,144	1,97,63,009

Average Value

2,67,73,114

2,18,30,641

That in light of the above mentioned, the total value of of the Corporate Debtor is as follows:

a. **Average Fair Value** : Rs. 2,96,32,794.50/-

b. **Average Liquidation Value** : Rs. 2,41,82,989.50/-

9. In the seventh meeting of CoC held on 02.03.2020. The meeting was held on the request of the members of the

CoC, primarily to discuss the Resolution Plan submitted by Mr. Shikhar Chandra Jain (Respondent No. 1). The respondent No. 1 had agreed to pay an amount of Rs.18.83 crore vide the Resolution Plan. That only 3.6% votes were received in favour of approval of the Resolution Plan.

10. The CoC in its tenth CoC meeting, held on 24.06.2020, after all the discussions and deliberations on the entire aspect, concluded that there are no other avenues left but to explore the Liquidation process for CD and accordingly resolutions were passed by the CoC with 99.02% majority. Following resolutions were passed:

Resolution 2:

“RESOLVED THAT Cargo Planners Limited, the Corporate Debtor be liquidated under section 33(2) of Insolvency and Bankruptcy Code, 2016”.

“FURTHER RESOLVED THAT the resolution professional is hereby authorized to file an application under section 33(2) of Insolvency and Bankruptcy Code, 2016 before the Hon’ble NCLT.

Resolution 3:

To consider and if found fit, to pass with or without modification the following Resolution.

“RESOLVED THAT Mrs. Deepika Bhugra Prasad, bearing IBBI Registration No.

IBBI/IPA-003/IP-N000110/2017-2018/11186 be and is hereby appointed as the Liquidator of Cargo Planners Limited.

“FURTHER RESOLVED THAT fees of the liquidator will be decided in the very first meeting of the stakeholders consultation committee (SCC)”.

That both of the above mentioned resolutions were approved with 99.02% majority.

11. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. Cargo Planners Limited with following directions:
 - a. That Mrs. Deepika Bhugra Prasad, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
 - b. That Mrs. Deepika Bhurgra Prasad , holding Registration No. IBBI/IPA-003/IP-N000110/2017-2018/11186, 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;
 - 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 and the Liquidator for taking necessary steps;

- k. I.A. 3558 (PB)/2020 filed in IB- 867(PB)/2019 is disposed of in terms of the aforesaid terms.

Sd/-

(B.S.V. PRAKASH KUMAR)

ACTG. PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)

MEMBER (TECHNICAL)

08.01.2021

SIDDHANT, LRA