



**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

IA(IBC)(LIQ.)/25(ND)2024

In

CP (IB) – 97(PB)/2023

Order under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

IN THE MATTER OF:

KALIBER ASSOCIATES PRIVATE LIMITED

... FINANCIAL CREDITOR

VERSUS

ALLIED REALBUILD PRIVATE LIMITED

(formerly known as “Allied Software Development Private Limited”)

...CORPORATE DEBTOR

AND

IN THE MATTER OF: IA(IBC)(LIQ.)/25(ND)2024

MR. GAGAN GULATI

RESOLUTION PROFESSIONAL

ALLIED REALBUILD PRIVATE LIMITED

(formerly known as “Allied Software Development Private Limited”)

..... APPLICANT

Order Pronounced On: 28.04.2025

CORAM:

CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR

HON’BLE PRESIDENT

SHRI RAVINDRA CHATURVEDI

HON’BLE MEMBER (TECHNICAL)

Appearances:

For the RP

: Ms. Yogita Bhatia, CS with RP, Gagan Gulati

ORDER



1. This is an Application filed on 17.05.2024 by Mr. Gagan Gulati, the Resolution Professional of Allied Realbuild Private Limited, the Corporate Debtor (CIN: U68200DL2005PTC135791) before this Adjudicating Authority under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (“**IBC**” or “**Code**”) seeking initiation of liquidation proceedings of the Corporate Debtor on the basis of the decision taken by the Committee of Creditor (“**CoC**”) in its 3th Meeting held on 08.05.2024. Prayers made in the Application read as below:

- I. *Pass an order for liquidation of the Corporate Debtor in accordance with sub-section (1) of Section 33 of the Insolvency and Bankruptcy Code, 2016*
- II. *Pass an order to appoint Mr. Gagan Gulati, the Resolution Professional to act as the Liquidator the Corporate Debtor.*
- III. *Pass any other or further order(s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the case.*

Brief Background of the Case

2. An Application was filed by M/s Kaliber Associates Private Limited (Financial Creditor) to initiate Corporate Insolvency Resolution Process (**CIRP**) for the Corporate Debtor under Section 7 of the Code read along with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016. This Adjudicating Authority vide order dated 07.02.2024 (**Admission Order**) was pleased to admit the application and a moratorium was declared. Mr. Gagan Gulati was appointed as an Interim Resolution Professional (**IRP**).
3. The IRP made a public announcement in Form-A on 12.02.2024 in Financial Express (English) and Jansatta (Hindi), in New Delhi edition, inviting claims to be filed on or before 23.02.2024.



4. Pursuant to the public announcement, only one claim from an unsecured financial creditor for an amount of INR 7,77,17,260/- (Rupees Seven Crores, Seventy-Seven Lacs, Seventeen Thousand and Two Hundred and Sixty Only) was received till 07.05.2024 (90 days from the date of admission order i.e., last date of submission of claim as per regulation 12(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (**CIRP Regulations**), while the claim was admitted by the RP only for INR 3,00,00,000/- (Rupees Three Crores Only). Accordingly, the Committee of Creditors was constituted with a sole member/unsecured financial creditor i.e., M/s Kaliber Associates Private Limited.
5. It is submitted that the list of creditors under Regulation 13(2)(d) of CIRP Regulations was filed with this Adjudicating Authority vide IA(I.B.C)/1113(PB)2024. Further, the Report on constitution of COC under Section 21 of IBC read with regulation 17(1) of the CIRP Regulations, vide IA(I.B.C)/1116(PB)2024 was filed by the Applicant. Both these reports were taken on record by this Adjudicating Authority vide order dated 06.03.2024.
6. The IRP convened 1st Meeting of the Committee of Creditors (**CoC**) on 05.03.2024, wherein in accordance with section 22(2) of the IBC, the IRP, Mr. Gagan Gulati was confirmed as Resolution Professional (**RP**) and the decision was communicated to this Adjudicating Authority vide IA(I.B.C)/1657(PB)2024.
7. That in accordance with regulation 27 read with regulation 35 of the CIRP regulations, RP appointed registered valuers, and the same was intimated to the CoC in its 2nd meeting convened on 03.04.2024. In the 2nd Meeting eligibility criteria for Prospective Resolution Applicant was approved.



8. The Applicant/RP published Form G on 07.04.2024 in Financial Express (English) and Jansatta (Hindi) in New Delhi Editions for inviting Expression of Interest (**EoI**) under Regulation 36A(1) of the CIRP Regulations. In response to Form G, expression of interest from 1 (One) PRA was received, which was found to be non-compliant with the eligibility conditions.
9. The Applicant/RP convened 3rd Meeting of the COC on 08.05.2024. In the meeting it has been discussed that single EoI received in response to Form G was found non-compliant and the same is extracted herein below:

“ITEM NO.5

TO DISCUSS ABOUT EXPRESSION OF INTEREST

The Chairman apprise the members in pursuance to the publication of revised Form-G dated 07.04.2024 of Form- G for Invitation for Expression of Interest ("EoI") as per related provisions of Insolvency & Bankruptcy Code 2016 ("IBC") read- (with Regulations thereof including Regulation 36A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("IBBI (CIRP) Reg"), undersigned would like to apprise you that we have received only one Expression of Interest (EOI) in response to the Form G published on 07.04.2024 from Zapstar Infra and Realty Solutions Private Limited.

Upon reviewing the submissions as mentioned in the detailed Expression of interests for submitting resolution plans, it was found that the submitting party did not fulfill one of the mandatory prerequisites outlined in the Detailed EOI. Specifically, "they failed to provide the required refundable deposit of Rs 5,00,000/- Subsequently, on 24.04.2024, we communicated to them that their Expression of Interest was considered invalid due to non-compliance with this deposit requirement.

Despite our communication, we have not received any response from the Zapstar Infra and Realty Solutions Private Limited till

date. In light of these circumstances, there is no PRA for provisional list.”



10. Further it has been noted in the 3rd CoC meeting that an Application filed by the RP under section 19(2) of the IBC has been allowed and disposed of by this Adjudicating Authority vide order dated 29.04.2024 with the directions to the suspended director to furnish the documents and information sought within 15 days from the date of the order.
11. RP further apprised the CoC that in relation to the duty enlisted under section 25(2)(g) read with regulation 36 of the CIRP regulations, RP has been preparing Information Memorandum, and that RP had no access to latest data, no financial statements, due to lack of response from the suspended management. Nevertheless, RP apprised that the draft Information Memorandum has been prepared based on data available on MCA portal.
12. In view of the circumstances, as noted above the resolution for initiation of Liquidation as per Section 33(2) of the Code was proposed and passed in the 3rd CoC meeting itself with 100% vote share in favour:

“ITEM NO. 7

TO DISCUSS AND CONSIDER THE FILING OF APPLICATION WITH THE HON'BLE NCLT UNDER SECTION 33(2) OF INSOLVENCY AND BANKRUPTCY CODE AND RELEVANT REGULATIONS FRAMED THEREUNDER FOR THE INITIATION OF LIQUIDATION OF CORPORATE DEBTOR:

The Chairman hereby informs the members of COC that since no Resolution Plan has been received by the RP till date of this Notice and RP has to incur heavy costs to run the process out of his own pocket, it will be a favorable option to move the Corporate Debtor towards Liquidation and further the Resolution professional hereby



gives consent to act as a Liquidator. Thus, the Chairman seeks permission from the members of the COC to apply before the Hon'ble NCLT, New Delhi Bench, for the initiation of liquidation proceedings against the CD under section 33 of IBC 2016

The Chairman to apprise the COC members that, there is no information available pertaining to assets available with the Corporate Debtor.

After detailed discussion and deliberation, the agenda is put forth before the COC for voting through circulation of Ballot Sheet:

"RESOLVED THAT pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016, the approval of the COC be & is hereby accorded to file an application with the Hon'ble NCLT for the Liquidation of the Corporate Debtor.

RESOLVED FURTHER THAT the Resolution Professional hereby gives consent to act as Liquidator.

RESOLVED FURTHER THAT the Resolution Professional is hereby authorized to do all necessary and incidental acts in this regard."

13. In this 3th meeting, the CoC has further resolved to explore opportunities for compromise and arrangements in terms of Regulation 39BA of the CIRP Regulations and following resolution was passed in this respect:

"RESOLVED THAT pursuant to Regulation 39BA Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the approval of the members be and is hereby accorded to explore the possibilities of compromise or arrangement as per Regulation 2B of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 or to go for compromise or arrangement under Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. RESOLVED FURTHER THAT Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be required necessary and incidental thereto."



14. Further, in this 3th meeting, the CoC has resolved to explore opportunities for sale of the Corporate Debtor as a going concern in terms of Regulation 39C of the CIRP Regulations and following resolution was passed in this respect:

"RESOLVED THAT pursuant to Regulation 39C Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the approval of the members be and is hereby accorded to sale the Corporate debtor as a going person as per clause (e) of Regulation 32 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

RESOLVED FURTHER THAT Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be required necessary and incidental thereto."

15. Hence, the present Application, is filed by the RP for approval of Liquidation of the CD.

16. We find it pertinent to discuss that during the CIRP, the Applicant had filed an application bearing IA(I.B.C)/1554(PB)2024 seeking cooperation from suspended directors which was allowed vide order dated 29.04.2024. However, the RP states that he could not trace the suspended directors, let alone receiving cooperation and documents from them, despite orders. Thus RP had filed Contempt Application (IBC)/28(PB)2024 before this Adjudicating Authority, which is pending for adjudication. Furthermore, the RP upon filing this application for Liquidation vide order dated 29.05.2024 was directed to serve notice of the 'Application for Liquidation' upon suspended directors of the Company. Pursuant to these directions, the RP has filed compliance affidavit dated 06.06.2024. Since the suspended directors did not appear nor made any representation, vide order dated 22.01.2022 permitted substituted service and



further directed to file memo to the effect that despite efforts undertaken by the RP to locate the directors, it has not resulted in any success. Consequently, memo for non-traceability of directors dated 18.03.2025 has been filed.

17. Taking note of the above we are satisfied that adequate opportunity has been given to suspended directors for their appearance before this Adjudicating Authority. However they have failed to appear. Further, as per submissions made on behalf of RP, suspended directors are not traceable as recorded in our order dated 22.01.2025. We find that RP has taken all reasonable steps to effect proper service. We find no good reason to keep CIRP proceedings going on which appears to be an empty formality. This Application as informed by Ld. Counsel for RP and CoC is to save their valuable time and recover the best after liquidation. Any further delay will erode the value and it will not be in the interest of all stake holders.
18. Furthermore, in the Hon'ble Supreme Court in the matter of **K. Sashidhar Versus Indian Overseas Bank & Ors.** in Civil Appeal No. 10673 of 2018 has held that the commercial decision of CoC is non-justiciable. In this case, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.
19. In the light of above facts and circumstances, it is hereby ordered as follows:
 - i.** **IA(IBC)(LIQ.)/25(ND)2024** filed by Mr. Gagan Gulati, the Resolution Professional of Allied Real build private Limited, the Corporate Debtor is **allowed** and the Corporate Debtor is ordered to be liquidated in terms of Section 33(2) of the IBC;
 - ii.** The Insolvency and Bankruptcy Board of India ("IBBI") vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under Section 34(4)(b) of the Code has recommended that an IP



other than the RP/IRP may be appointed as Liquidator in all the cases where Liquidation order is passed henceforth and the Liquidator can be appointed from the panel list of the IBBI.

- iii.** Therefore, this Adjudicating Authority appoints **Vikash Sharma** as the Liquidator of the Corporate Debtor from the available panel of Resolution Professionals/Liquidators as maintained by the IBBI. The details of the named Liquidator is follows:

IBBI Registration No.: IBBI/IPA-001/IP-P-02456/2021-2022/13811

Email address: ca.vikash.sharma@gmail.com

Address: 44F/9, Kishangarh, VasantKunj, South, National Capital Territory of Delhi,110070

The Liquidator is directed to file Written Consent in Form-2 within 3 days of the pronouncement of this order.

- iv.** Mr. Gagan Gulati, the Resolution Professional of the Corporate Debtor is relieved from the present assignment as the Resolution Professional. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed Liquidator forthwith.
- v.** The Liquidator shall initiate the Liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- vi.** Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in Liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that



the authorities concerned are informed timely of the Liquidation order.

- vii.** All the powers of the Board of Directors, and of key managerial personnel, shall cease to exist in accordance with Section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- viii.** The personnel of the Corporate Debtor are directed to extend all assistance and cooperation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.
- ix.** The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Code shall commence. On initiation of the Liquidation process but subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute the suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- x.** In accordance with Section 33(7) of the Code, this Liquidation order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the Liquidation process by the Liquidator.
- xi.** The Liquidator shall manage and govern the affairs of the Corporate Debtor and shall have resort to powers and duties in terms of Section 35(1) of the Code.
- xii.** The Liquidator shall also follow up the pending applications for disposal during the process of Liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.



- xiii.** 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;
- xiv.** The Liquidator and the Registry are hereby directed to send a copy of this order within 3 days from the date of this order to the Registrar of Companies, NCT of Delhi & Haryana. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
- xv.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- xvi.** The Registry is further directed to send a copy of this order to the IBBI for their record.
- xvii.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

20. The Application bearing **IA(IBC)(LIQ.)/25(ND)2024** filed in CP (IB) – 97(PB)/2023 is **allowed** and stands **disposed of** in accordance with the above directions.

Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (TECHNICAL)