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**(2019) 08 NCLT CK 0055**

**In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi**

**Case No :** Company Application No. 777(PB) Of 2019 In Company Petition No. 1081 Of 2016

**In Re: Umesh Garg And Ors. Vs**

**Date of Decision :** 07-08-2019

**Acts Referred:**

Insolvency And Bankruptcy Code, 2016 — Section 14, 33, 33(2), 33(5), 34(1)
Companies Act, 2013 — Section 433, 434, 439

**Citation :** (2019) 08 NCLT CK 0055

**Hon'ble Judges :** M.M. Kumar, CJ;Santanu Kumar Mohapatra, Member (Technical)

**Bench :** Division Bench

**Advocate :** Vaibhav Mahajan, Ranveet Singh, Siddharth Gupta, Gurmeet Bindra

**Final Decision :** Disposed Of

# Judgement

Santanu Kumar Mohapatra, Member (T)

1. This is an application filed by the Resolution Professional under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the corporate debtor, M/s. World Consulting & Research Corporation Private Limited.

2. The facts in brief are that the operational creditor, Mr. Tathagata Bhattacharya had filed an application under Section 433, 434 & 439 of the Companies Act, 2013 bearing C.A. 777(PB)/2019 in Company Petition No. 1081/2016 before Hon'ble High Court of Delhi which subsequently got transferred to this Tribunal. The said application was admitted by this Tribunal on 08.01.2018 by initiating Corporate Insolvency Resolution Process against the corporate debtor M/s. World Consulting & Research Corporation Pvt. Ltd. and Mr. Pankaj Khetan was appointed as Interim Resolution Professional (IRP).

3. It is submitted that the corporate debtor was a consultancy firm and had no assets except 3 vehicles out of which 2 vehicles have already been sold. It is also pertinent to note that the HDFC bank is the sole member of the committee of

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creditors.

4. HDFC Bank the sole member of the committee of creditor has filed objection on 23.04.2019 with the precise contention that the company has no other assets except one car. It is prayed that in order to avoid further CIRP expenses the corporate debtor may be dissolved. It is also the contention of the objector that in the present case there is no chance of reviving the corporate debtor.

5. Even though there is no chance to revive the corporate debtor, however as admittedly the corporate debtor possesses one car; it cannot be dissolved without disposing the said asset. It has been stated in the application that the valuation of the car was Rs 9.75 lacs as per the valuation report dated 11.01.2019.

6. It is appropriate to note here that the Corporate Insolvency Resolution Period prescribed under the Code has since expired. Besides there is no dispute that there are assets of the corporate debtor (1 car) which has to be disposed of before any order of dissolution could be passed.

7. In the facts and in the absence of any resolution plan or any possibility of revival of the company and as corporate insolvency resolution period has already been over; there is no other alternative but to order for liquidation of the corporate debtor under Section 33(2) of the Code.

8. It is pertinent to mention here that the applicant Resolution Professional has not consented for its appointment as a liquidator of the corporate debtor. Accordingly, the liquidator is to be appointed from the list of resolution professionals for appointment of liquidator as made available by the IBBI.

9. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. World Consulting & Research Corporation Pvt. Ltd. in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

a. Mr. Kanti Mohan Rustagi having registration no. IBBI/IPA-002/IP-N00097/2017-18/10240, e-mail; id kanti.rustagi@patanialiassociates.com, New Delhi, is appointed as Liquidator in terms of Section 34(1) of the Code. He is directed to file his Written Consent in the specified Form within seven days from the date of this order.

b. The 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;

c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

d. 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

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Code, 2016 and in accordance with the relevant regulations.

e. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

f. C.A. 777 (PB)/2019 filed in CP. No. 1081 of 2016 is disposed of in the aforesaid terms.

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