



**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU**
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)
(Through Web-Based Video Conferencing)

IA No. (Liq) 01/2025
In C.P. (IB) No. 133/BB/2023
U/s. 33(2) r/w section 60 (5) (c) of the
Insolvency and Bankruptcy Code, 2016
R/w Rule 11 of the NCLT Rules, 2016

In the matter of IA No. (Liq) 01/2025 :

Kalpana Kamlesh Gandhi
Interim Resolution Professional of
M/s Konverge Healthcare Private Limited

..... Applicant

In the decided matter of:

Konverge Healthcare Private Limited

.....Original Applicant/ Corporate Applicant

Order Delivered on: 25.07.2025

Coram: 1. Hon'ble Shri Sunil Kumar Aggarwal, Member (Judicial)
2. Hon'ble Shri Radhakrishna Sreepada, Member (Technical),

Parties/Counsels Present:

For the Applicant: Shri Shrinath Bhat

ORDER

1. This Present Application has been filed on 13.12.2024 under section 33 (2) and section 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w rule 11 of the National Company Law Tribunal Rules, 2016 by Kalpana Kamlesh Gandhi, Interim Resolution Professional of the Konverge Healthcare Private Limited ("Corporate Debtor") inter-alia praying to this Adjudicating Authority for following reliefs:-

A. *It is humbly prayed that, since there is no claim by the Financial Creditors of the Company and since no claims of the operational creditors have been admitted and no CoC is constituted, Hon'ble Tribunal may admit the*

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application and pass an order for initiation of liquidation of Corporate Applicant.

- B. *Adding to the above prayer "Pass any kind of order which is necessary in this regard to protect the interest of the shareholders & stakeholders large on equitable grounds*

2. Brief facts of the application are given hereunder:

- a. The Company Petition bearing C.P (IB) No.133/BB/2023 was filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 to initiate Corporate Insolvency Resolution Process ('CIRP') against Corporate Debtor was admitted on 06.11.2024 and Ms. Kalpana Kamlesh Gandhi was appointed as Interim Resolution Professional ("IRP") of the Corporate Debtor.
- b. After receiving the Order of appointment of the Applicant as the IRP of the Corporate Debtor, the IRP issued a Public Announcement in the newspapers in Form-A on 09.11.2024 as per Regulation 6 of the Insolvency Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 and the last date for submission of claims was 22. 11.2024.
- c. By 23.11.2024, only 7 claims from Operational Creditors were received. On 27.11.2024, a claim was submitted by a director of the corporate debtor, who qualifies as a related party u/s 5(24) of the Code.
- d. Further, on 29.11.2024 one claim from Operational Creditor was received. Despite issuing two reminder emails to the Financial Creditors, no claims have been received from them. As the financial statements did not separately disclose the amounts payable to each Operational Creditor, the statement of claim was forwarded to the Suspended Board of Directors (SBOD) of the Corporate Debtor for their assistance in providing the supporting ledger. Three reminder emails were subsequently sent to the SBOD, seeking the requisite details and supporting documents necessary to verify the claim submitted by the Operational Creditor.
- e. However, there has been no response received from the SBOD with the supporting documents to verify the claims of the Operational Creditors due to which the IRP could not accept the claims of the Operational Creditors. There being no claims submitted by the Financial Creditors and no supporting



documents to accept the claims, the Committee of Creditors could not be constituted.

- f. As per the books of accounts as on 25.08.2023 that provided by SBOD, the Corporate Applicant has an Asset of Rs. 18,08,105/- and Liability of Rs. 6,66,37,431/-. The bank summary of ICICI Bank for the period from 20.11.2023 to 21.07.2024 based on ICICI Bank statement provided by SBOD is attached as Annexure C which reflects the following transactions:
- The Bank account credited an amount of Rs. 1,49,300/- from Mr. Tarun Kumar (SBOD).
 - An IT refund of Rs. 17,770/- was credited to bank account.
 - From these funds, the company made payments towards India Infoline and incurred certain legal expenses & other expenses.
- g. The Applicant craves leave to place reliance on the judgment of the Hon'ble National Company Law Tribunal, Hyderabad Bench, in the matter of ***Sarthak Gupta and Dolly Gupta v. MLP Developers and Promoters Private Limited***, wherein the Hon'ble Bench held that when no claims are received against the Corporate Debtor, except from the petitioners who are directors and related parties, the constitution of the Committee of Creditors and continuation of the CIRP would serve no useful purpose. The Tribunal accordingly treated the application as one under Section 33(1) of the Code and directed the liquidation of the Corporate Debtor. A similar situation arises in the present case, where no claims have been received from Financial Creditors and the Operational Creditors' claims could not be verified due to lack of supporting documentation. Therefore, in line with the above judgment and in the interest of avoiding a futile CIRP, the Applicant prays for initiation of liquidation proceedings under Section 33 of the Insolvency and Bankruptcy Code, 2016.
- h. Further, the Applicant places reliance on the judgment of the Hon'ble National Company Law Tribunal, Ahmedabad Bench, in ***IA/811(AHM)/2022 in CP(IB) 231(AHM)/2021***, in the matter of ***Ms. Prajakta Menezes, Interim Resolution Professional of Nana Layja Power Company Ltd.***, wherein an application was filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the NCLT Rules, 2016, invoking the inherent powers of the Tribunal. In the said matter, the Hon'ble Bench,
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considering the factual circumstances, was pleased to pass an order for liquidation of the Corporate Debtor, noting the absence of any possibility of meaningful continuation of the CIRP. A copy of the said order is annexed herewith and marked as **Annexure D**. The Applicant respectfully submits that the present case is on similar footing and, therefore, prays that this Tribunal may be pleased to pass an order for liquidation of the Corporate Applicant under Section 33 of the Code.

3. We have carefully considered the submissions made in the application by the Resolution Professional and have also perused the materials on record.
4. The relevant provisions of sub-sections (1) and (2) of Section 33 of the Code read as follows:

“33. Initiation of liquidation.-

(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).”

5. It is seen that only one claim was received from an Operational Creditor, but none from Financial Creditors despite reminders. Due to lack of response from the



Suspended Board of Directors for necessary documents, the claim could not be verified and the Committee of Creditors could not be constituted.

6. In the circumstances, this Tribunal places reliance on the judgment of the Hon'ble National Company Law Tribunal, Hyderabad Bench, in the matter of ***Sarthak Gupta and Dolly Gupta v. MLP Developers and Promoters Private Limited***, wherein the Hon'ble Bench held that “...even if the COC is constituted and the process of CIRP is undergone, the claimants would be petitioners in the CP only. Therefore, we are of the considered view that no useful purpose would be served by constituting the COC and by proceeding with the CIRP process. Hence, we treat this IA as an IA filed under Section 33(1) and direct that the corporate debtor be liquidated as per the provisions of the Code and Regulations made thereunder.”
7. In view of the facts and the relevant legal precedents, the **Corporate Debtor KONVERGE HEALTHCARE PRIVATE LIMITED is to be liquidated** in the manner as laid down in Chapter III of the Code and appoint the Interim Resolution Professional as the Liquidator. Some of the directions are noted as under:
 - i) That as per Section 33 (5) of the Code and subject to Section 52 of the code, no suit or other legal proceedings shall be instituted against the corporate Debtor, except with the prior approval of the Adjudicating Authority;
 - ii) That the provisions of sub-section (5) of Section 33 of the Code 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;
 - iii) That this order of liquidation under Section 33 of the Code 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;
 - iv) That 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 shall be vested in the Liquidator;
 - v) That the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provision of Section 19 of the Code shall apply in



relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the Interim Resolution Professional;

- vi) That the Liquidator shall publish public announcement in accordance with Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and in Form B of Schedule II of the said Regulations within five days from receipt of this order calling upon the stake holders to submit their claims as on liquidation commencement date and provide the last date for submission of claim which shall be 30 days from the liquidation commencement date.
- vii) That the Liquidator shall file his preliminary report within 75 days and to file regular progress reports as per Regulation 15 thereafter in accordance with Regulation 13 of the Insolvency and Bankruptcy Board of India (Liquidation Process), Regulations, 2016.

8. Accordingly, **I.A. No. (Liq) 01/2025 stands allowed and disposed of.**

9. Copy of this order be supplied to the counsel for the Liquidator as well as to the Registrar of Companies, Bengaluru forthwith. The Registry is also directed to send a copy of this order to the Liquidator at his e-mail address.

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(RADHAKRISHNA SREEPADA)
MEMBER (TECHNICAL)

-Sd-

(SUNIL KUMAR AGGARWAL)
MEMBER (JUDICIAL)