

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1267 of 2025**

**IN THE MATTER OF:**

**Deborshi Sadhan Bose**

**...Appellant**

**Versus**

**Rakesh Duggar,**

**Liquidator of E.C. Bose & Company Pvt. Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellant : Mr. Arik Banerjee, Mr. Pujon Chatterjee,  
Advocates.**

**For Respondents : Mr. Tanish Ganeriwalla, Mr. Aishvary Vikram,  
Advocates for R-1.**

**Mr. Aman Agarwal, Advocate for R-2.**

**ORDER**  
**(Hybrid Mode)**

**01.09.2025:** Heard learned counsel for the Appellant. This appeal has been filed against order dated 20.06.2025 by which order the Adjudicating Authority has allowed I.A. (IB) (LIQ) No.41/KB/2024. Appellant aggrieved by the order has come up in this appeal.

2. Learned counsel for the Appellant submits that the Appellant has given a higher offer and filed an application on 15.05.2025 seeking the direction to consider the higher offer given by the Appellant. It is submitted that consideration of higher offer was in accordance with the objects of CIRP and the Adjudicating Authority kept the application pending and has allowed the application filed by the Resolution Professional and directed for liquidation. He submits that in application filed by the Appellant time was granted to file

*Cont'd..../*

reply and application was listed but the Court did not hear the application and passed order of liquidation.

3. Learned counsel for the Appellant further submitted that Appellant has received a concrete offer from a company/investor, who is Proforma Respondent No.1, who has offered to settle on Rs.8 Crore. Learned counsel for the Appellant has relied on judgment of this Tribunal in "*Company Appeal (AT) (Ins.) No.650 of 2023, Gayatri Polyrub Pvt. Ltd. vs. Anil Kohli and Another*" and submitted that in the said case this Tribunal directed to consider the higher offer of two Resolution Applicants by stopping the liquidation process.

4. We have considered the submissions of learned counsel for the Appellant and perused the record.

5. The Adjudicating Authority in the order has noted that period of 330 days of CIRP came to an end on December, 2024. In the CIRP, no resolution plan could be received, hence, decision was taken for liquidation and the Resolution Professional filed an application seeking direction for liquidation. Learned counsel for the Appellant himself has referred to the CoC minutes of February, 2025 where the CoC has noted that 330 days has come to end in December, 2024 and there being no resolution and maximum period of CIRP having come to an end, the process of liquidation need to be gone into.

6. Learned counsel for the Appellant has referred to Item No. B1 at page 123, which is as follows:

**“ITEM NO. 81: TO DISCUSS AND CONFIRM/RATIFY  
THE APPLICATION FOR INITIATION OF THE  
LIQUIDATION PROCEEDINGS AGAINST THE  
CORPORATE DEBTOR FILED U/S 33 OF THE CODE.”**

*The Rebooted CIRP against the Corporate Debtor was initiated by the Hon'ble National Company Law Tribunal (NCLT) by its order dated 13th March 2024. Thereafter, with the approval of the CoC and the Hon'ble NCLT, Kolkata Bench, the last date of the Process was extended from time to time, with the latest extension granted by the Hon'ble NCLT by its order dated 26th November 2024, extending the last date of the rebooted CIRP period until 22nd December 2024. Prior to the expiration of this period, the 21st CoC meeting was convened on 16th December 2024 and subsequently adjourned to 20th December 2024. However, during this meeting, the CoC did not arrive at a resolution concerning either the further extension of the rebooted CIRP or the initiation of liquidation proceeding against the Corporate Debtor. The representative of the SBI communicated that they were waiting a decision from their internal appropriate authority regarding the liquidation of the Corporate Debtor, while the representative of STPL indicated that decision by the CoC nor having any Plan under consideration of the CoC, upon the expiration of the pay would wait for SBC's decision on this matter. Consequently, in the absence of definitive rebooted CIRP period, the only option available to the RP was to file an application for liquidation under Section 33(1) of the Insolvency and Bankruptcy Code (IBC). Accordingly, an application was filed before the*

Hon'ble NCLT, Kolkata Bench in IA(IBC) (LIQ)/41(KB)2024 seeking an order for initiating the liquidation proceedings of the Corporate Debtor, which is now pending adjudication

**On January 22, 2024, the representative of SBI communicated via email that they had obtained the necessary internal approval from their appropriate authority to proceed with the liquidation of the Corporate Debtor. As a result, SBI has decided to move forward with the liquidation process. Attached as Annexure-I is the email received by RP from SBI.**

Considering the above, this meeting has been convened to seek ratification of the application filed under Section 33(1) of the IBC, as well as the decision of the CoC on other allied matters relating to the liquidation of the Corporate Debtor. Since SBI has decided to approve the Liquidation of the Corporate Debtor, the only decision pending is from Sugesan Transport Private Limited (STPL) on this matter. The representative from STPL indicated that additional time would be needed to reach a final decision on this matter. At this stage, the RP pointed out that according to CIRP Regulation 24(7), the RP must circulate the minutes of the meeting to all participants electronically within forty-eight hours of the meeting.

**No official communication from STPL was received regarding their decision on this matter by the time the meeting minutes were circulated.”**

7. Present is a case where 330 days of CIRP are over and no resolution plan could be approved. In February, 2025, the CoC decided to proceed with liquidation and application was filed by the Resolution Professional for Liquidation. The Appellant who has come up in the scene claiming that he has received an offer from an investor in March, 2025 to receive Rs.8 Crore to settle the dues and has filed an application. Present is not a case where any resolution plan was submitted by the Suspended Director and much after decision was taken by the CoC in February, 2025 for liquidation, application is claimed to be filed giving an offer.

8. Judgment of this Tribunal which has been relied by the Appellant in *Gayatri Polyrub Pvt. Ltd.* does not indicate that maximum period of 330 days was over. Furthermore, two Resolution Applicants who had made higher offer were directed to be considered by this Tribunal after the CoC agreed to consider their plans. Present is a case where Appellant is not a Resolution Applicant and filed application claiming to receive an offer from a third party investor. We are of the view that at the instance of the Appellant no error could be found in the order of the Adjudicating Authority directing for liquidation. When 330 days of CIRP has expired and no resolution plan was approved, the Adjudicating Authority has rightly directed for liquidation.

9. Learned counsel for the Appellant has lastly relied on judgment of this Tribunal in “*Company Appeal (AT) (Ins.) No.288 & 289 of 2018, V. Navaneetha Krishnan vs. Central Bank of India, Coimbatore & Another*”, where according to the Appellant, Section 12A proposal was directed to be considered after

decision was taken to go for liquidation and 180 days of CIRP were over. Para 4 and 5 of the judgment is as follows:

*“4. Taking into consideration the fact that the 'resolution plan' was submitted on 178th day and on the next day i.e. 179th day the 'Committee of Creditors' decided to go for liquidation as 180 day was to be completed and order under Section 31 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code') was required to be passed and in absence of any good reason for extension of time, we are not inclined to grant any relief.*

*5. However, in view of Section 12A even during the liquidation period if any person, not barred under Section 29A, satisfy the demand of 'Committee of Creditors' then such person may move before the Adjudicating Authority by giving offer which may be considered by the 'Committee of Creditors', and if by 90% voting share of the 'committee of creditors', accept the offer and decide for withdrawal of the application under Section 7 of the I&B Code, the observation as made above or the order of liquidation passed by the Adjudicating Authority will not come in the way of Adjudicating Authority to pass appropriate order. Both the appeals are dismissed with aforesaid observations. No cost.”*

10. Present is not a case where any 12A proposal for settlement has been given by the Appellant. Appellant claim to submit settlement proposal received from investor after decision was taken for liquidation and after expiry

of 330 days. In the case which has been relied by the Appellant, after expiry of 178 days' decision was taken for liquidation and in the said circumstances, the Court directed for considering the proposal. The said case is clearly distinguishable from the case of the Appellant. We, thus, do not find any error in the order of the Adjudicating Authority directing for liquidation. In the liquidation process, if so advised, any interested person can submit a scheme under Regulation 2B of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Appeal is dismissed.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

*Archana/nn*