

liquidation of the corporate debtor can be ordered u/s 33 of the IBC in the absence of claims from either financial or operational creditors, and the inability to constitute the Committee of Creditors

The National Company Law Tribunal (NCLT), Bengaluru, in the case of **Kalpana Kamlesh Gandhi, Interim Resolution Professional of M/s Konverge Healthcare Private Limited [IA No. (Liq) 01/2025 In C.P. (IB) No. 133/BB/2023]** dated July 25, 2025, has held that in the absence of any claims from either financial or operational creditors, due to a lack of supporting documents to prove such claims and the inability to constitute the Committee of Creditors (CoC), liquidation of the corporate debtor can be ordered under Section 33 of the IBC.

While answering the application filed under section 33(2) of the Insolvency and Bankruptcy Code, 2016 (IBC) seeking initiation of the Liquidation Proceedings against the Corporate Debtor due to non-submission of any claims either by Financial Creditors or Operational Creditors, the NCLT noted that in the present case, no claim was filed by the Operational Creditor and the Financial Creditors failed to file their claims despite their reminders. Furthermore, the suspended board failed to provide the requisite documents for verification, due to which the Committee of Creditors (CoC) could not be constituted.

The NCLT also noted that, 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.

Therefore, relying on *Sarthak Gupta & Dolly Gupta v. MLP Developers and Promoters Pvt. Ltd*, the NCLT held that as per Section 33 (5) of the Code and subject to Section 52 of the IBC, no suit or other legal proceedings shall be instituted against the corporate Debtor, except with the prior approval of the Adjudicating Authority. Also, 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. Hence, it concluded that no purpose would be served by proceeding with the CIRP and therefore, it treated the present application under section 33(1) of the IBC and ordered the liquidation.