

**CoC is empowered to decide to liquidate the Corporate Debtor any time before the confirmation of the Resolution Plan.**

<b>CASE TITLE</b>	Amit Bharana v. Gian Chand Narang <sup>1</sup>
<b>CASE CITATION</b>	Company Appeal (AT) (Insolvency) No. 274 of 2020
<b>DATE OF ORDER</b>	12.01.2021
<b>COURT/TRIBUNAL</b>	NCLAT, New Delhi
<b>CASES REFERRED</b>	<i>Municipal Corporation of Greater Mumbai vs Abhilash Lal</i>
<b>SECTION/REGULATION REFERRED</b>	Section 33, 238 of the Code

**Brief of the case:**

An appeal was filed against the order of liquidation on the contention that Resolution Professional had received more than 9 EOI's (Expression of Interest) and four Resolution Plans, however, none of them was put to the vote and they were all dismissed based on mere discussion and deliberations, and that the liquidation order defeats the purpose of the Code, which contradicts the Preamble of the Code and was against the ethos of the Resolution Process.

**Decision:**

Hon'ble NCLAT dismissed the appeal and held that,

*"It is further said that liquidation order being a consequence either upon expiry of the time of CIRP when no Resolution Plan is received or in the event, a Resolution Plan is rejected by the CoC as per Section 33 of the Code...Thus, it is clear the CoC was empowered to decide to liquidate the Corporate Debtor at any time before confirmation of the Resolution Plan, including any time before the preparation of Information Memorandum. It also appears that when CoC noticed that both the Resolution Plans were not feasible and viable, and are being non-compliant which Section 30 of the Code read with Regulation 37 of CIRP Regulation thus. The same could not be considered the Resolution Plans per se within the Code and Regulations' meaning framed thereunder. Consequently, the CoC decided to propose the liquidation of the Corporate Debtor and on voting the same was passed by a majority of 87.30% of voting share of the Members of CoC."*



**QR CODE FOR FULL ORDER/JUDGEMENT:**

<sup>1</sup><https://nclat.nic.in/Useradmin/upload/12565975905ffd634037c0c.pdf>