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**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 12.03.2020

CAUSE LIST - 2

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 190/BB/2019	Forhearing – IA149/2020 IA 150/2020 - CIRP	Sec 9 of I&B Code 2016	M/s Fuso Glass India Pvt Ltd	K Narasimhan, Advocate	M/s Chaitra Glaze Pvt Ltd	Shri Ramanahalli Shivanna Doddabyregc wda, IRP

ADVOCATE FOR PETITIONER/s:

ADVOCATE FOR RESPONDENT/s:

R.S. Dadda Byregowda

ORDER

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Heard Shri. Ramanahalli.S.Doddabyregowda, learned Resolution Professional.
I.A No. 149/2020 & I.A No. 150/2020 are disposed of by separate order.

Post the case on **08.04.2020**

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MEMBER (T)

14/4
MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A.No.149 of 2020
U/s 33(2) of the I&B Code, 2016,
R/w Rule 11 of the NCLT Rules, 2016

I.A. No. 150 of 2020 in
U/s 34 of the I&B Code, 2016,
R/w Rule of 11 of the NCLT Rules, 2016 in

C.P. (IB) No.190/BB/2019
U/s 9 of the IBC, 2016,
R/w Rule 6 of the I&B (AAA) Rules, 20

Mr. Ramanahalli.S.Doddabyregowda

Resolution Professional of
M/s. Chaitra Glaze Pvt. Ltd
No.350, 1st Cross,
Canara Bank Layout,
Kodigehalli, Vidyaranyapura,
Bengaluru – 560 097

- Applicant/Resolution Professional

Date of Order: 12th March, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Applicant/RP : Mr. Ramanahalli.S.Doddabyregowda

COMMON ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.149 of 2020 in C.P. (IB)No.190/BB/2019 is filed by Shri Ramanahalli.S.Doddabyregowda, Resolution Professional of M/s. Chaitra Glaze Pvt Ltd (hereinafter referred to as 'Applicant/Resolution Professional') under Section 33(2) of the I&B Code, 2016, and read with 11 of NCLT Rules, 2016, by inter seeking for Liquidation of the Corporate Debtor i.e. M/s. Chaitra Glaze Pvt Ltd as the Company has no more a going concern, the Corporate Debtor has Negative net worth etc.

2. Another I.A No. 150 of 2020, U/s 34 of the I&B Code, 2016, R/w 11 of NCLT Rules, 2016, by inter alia seeking him to Liquidator for conducting the Liquidation Process of the Corporate Debtor in the interest of justice and equity.
3. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) The main Company Petition bearing C.P. (IB)No.190/BB/2019 filed by M/s. Fuso Glass India Pvt Ltd. U/s 9 of the IBC, 2016, R/w Rule 6 of the I&B (AAA) Rules, 2016, was admitted by the Adjudicating Authority, vide order dated 27th November, 2019, by initiating CIRP in respect of Corporate Debtor, appointing Mr. Ramanahalli.S.Doddabyregowda bearing Registration No. IBBI/IPA-002/IP-N00583/2017-2018/11775 as IRP, imposing moratorium etc. Subsequently, the Adjudicating Authority, vide its order dated 19th February, 2020 passed in I.A No. 107 of 2020 , confirming Mr. Ramanahalli Shivanna Doddabyregowda as the RP.

(2) In compliance to the Regulation 19 (1) and applicable of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Notice along with the Agenda for the fourth Meeting of the Committee of Creditors of M/s. Chaitra Glaze Pvt. Ltd (Corporate Debtor) was sent to Members and Members were allowed to attend the meeting on 07.03.2020. And said notice was served through e-mail as per Regulation 20 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(3) During the fourth COC Meeting held on 07.03.2020 the following issues were discussed:

The Resolution Professional brought the following to the notice of the members that the Company is a going concern with

Negative Net Worth, Main income of the Company is through execution of Fabrication and Glazing work. Company is solely depending on job work, as construction activity in Bangalore is slowing down, Company is struggling hard to keep pace with the change in technology, as its Fabrication facilities are conventional and obsolete. Company is in brink of liquidity crisis.

- a. Audited Balance Sheet for the year ending 31.03.2019 not prepared and submitted to ROC as per norms. Hence correct financial status of the Company as on date of commencement of CIRP is not available. Based on the Provisional Balance sheet submitted by the Directors of the Company, Assets and Liabilities are reported with disclaimer while preparing the Information Memorandum as per IBBI Regulation 36(1).
- b. Corporate Debtor is owing some Scrap Inventory valued around Rs.10 to 12.00 lacs, presently it is owing Machinery & Equipment valued around Rs.6.25 lacs. It is saddling with more Creditors for purchases (Rs.100.25 lacs) and finding it difficult to realise Book debts (Rs.61.25 lacs) which are nearing 180 days. On with holding of Rs.27,56,400/- by UCO Bank, activities of the Company has come to standstill. RP is not getting suitable financial sources to raise **Interim Finance** to meet the day to day operational costs.
- c. Company is no more a going concern, CD has 6 workmen and 2 Employees for maintenance of works executed. Monthly operational cost is around Rs.4.30 lacs.
- d. The CIRP period is expiring on 25th May 2020, continuation of CIR Process adds to "Insolvency Resolution Process Cost". Chances of getting Potential

Resolution Plan as per section 30 of the Code are remote, because of technological status of the Corporate Debtor and nature of activity of the Company i.e. execution of Job works. It is appropriate to go for liquidation of the Corporate Debtor without publishing Form-G and invitation of EOI as per Regulation 36A read with Regulation 36B.

Therefore, the COC decided to go for liquidation of the Corporate Debtor by passing following Resolution:

“RESOLVED THAT Pursuant to section 33 and other applicable provision of the IBC Code, 2016 and Rules and Regulations made there under, the committee of Creditors be and is hereby approve the Liquidation of the Corporate Debtor M/s. Chaitra Glaze Private Limited with immediate effect.”

“RESOLVED FURTHER THAT pursuant to section 34 and other applicable provision of the IBC code, 2016 Rules and Regulation made there under, the Committee of Creditor be and is hereby approve the appointment of Mr.Ramanahalli Shivanna Doddabyregowda, Insolvency Professional having IBBI Registration No. IBBI/IPA-002/IP-N00583/2017-2018/11775, as Liquidator of the Corporate Debtor M/s. Chaitra Glaze private Limited”

“RESOLVED FURTHER THAT the COC be and is hereby approves the Liquidator’s fees of Rs.80,000 (Rupees Eighty Thousand Only) plus per month and reimbursement of cost plus applicable GST, for the period of liquidation.”

“RESOLVED FURTHER THAT the committee of Creditors be and is hereby authorize the Resolution Professional Mr. Ramanahalli Shivanna Doddabyregowda to submit

the Application for Liquidation to the Adjudicating Authority, with prayer to pass Liquidation order and to appoint the Liquidator as approved by the Committee of Creditors.”

4. Heard Shri. Ramanahalli.S.Doddabyregowda learned Resolution Professional. We have carefully perused the pleadings of the Party and the extant provisions of the Code and the Rules made thereunder.
5. As detailed supra, the Resolution Professional and the COC of the Corporate Debtor, have made their best efforts to find a suitable Resolution Plan to revive the business of the Corporate Debtor. However, in the absence of any Resolution Plan received, there is no other alternative for the COC except to seek to order to liquidate the Corporate Debtor as per the provisions of the Code. The Resolution to initiate liquidation was also approved by the COC with requisite majority and the instant Application is filed strictly in accordance with law. The COC has also proposed Shri Ramanahalli Shivanna Doddabyregowda with Registration No. IBBI/IPA-002/IP-N00583/2017-2018/11775 as a Liquidator, for liquidating the Corporate Debtor, who has filed a written consent dated 07th March, 2020 to act as Liquidator of the Corporate Debtor i.e., M/s. Chaitra Glaze Pvt Ltd by inter alia declaring that there are no disciplinary proceedings against him with the Board or ICSI Insolvency Professionals Agency etc. Hence, he is provisionally eligible to be appointed as Liquidator. Therefore, it is a fit case to initiate Liquidation in respect of Corporate Debtor.
6. In view of the facts and circumstances of the case, the Adjudicating Authority, by exercising powers conferred under Section 33(2) of the IBC, 2016, disposed of I.A.No.149 of 2020 & I.A No. 150 of 2020 in C.P.(IB)No.190/BB/2019 with following directions:



- a) It is hereby ordered that M/s. Chaitra Glaze Pvt Ltd, Corporate Debtor to be liquidated in the manner as laid down in Chapter III of Part II of Code, R/w IBBI (Liquidation process) Regulations, 2016.
- b) Shri Ramanahalli Shivanna Doddabyregowda is hereby appointed as a Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI. He is directed to follow due process of law as per above Chapter and Regulations and to issue public announcement immediately by stating that the Corporate Debtor is in liquidation.
- c) The Liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder framed by the IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders.
- d) He is further directed to take steps for early dissolution of Corporate Debtor, in terms of Rule 14 of IBBI (Liquidation Process) Regulations;
- e) The Registry is directed to communicate this order to the Registrar of Companies, Karnataka for information and necessary action and also to the Liquidator
- f) Post the case for report of Liquidator on **08.04.2020**.

(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL

(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL