

**BEFORE THE AJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

**IA 378 /2018 in C.P. (I.B) No. 116/NCLT/AHM/2017**

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**  
**Hon'ble Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 16.09.2019**

Name of the Company: Alok Kailash Saksena RP of Gujarat Foils Ltd.  
V/s.  
Gujarat Foils Ltd.

Section of the Companies Act: Section 33(1) of the Insolvency and Bankruptcy  
Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.

2.


**ORDER**

None appeared on behalf of the parties.

The Order is pronounced in the open court, vide separate sheet.

  
**CHOCKALINGAM THIRUNAVUKKARASU**  
**MEMBER TECHNICAL**

Dated this the 16th day of September, 2019

  
**MANORAMA KUMARI**  
**MEMBER JUDICIAL**

**BEFORE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**IA No. 378/NCLT/AHM/2018  
in  
C.P. No. (I.B) 116/7/NCLT/AHM/2017**

Mr. Alok Kailash Saksena  
Resolution Professional of M/s Gujarat Foils Ltd.

.....Applicant  
[ Financial Creditor]

**In the matter of:**

M/s Allahabad Bank

.... Financial Creditor

**Versus**

M/s Gujarat Foils Ltd

Respondents  
[Corporate Debtor]

**Order delivered 16<sup>th</sup> September, 2019**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)  
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

**Appearance:** Advocate Mr. Akshat Khare for RP, Mr. Alok Kailash Saksena, Party in Person, Advocates Mr. Nipun Singhvi, Mr. Vishal Dave and Ms. Pragati Tiwari for the Resolution Applicant are present.

**ORDER**

**[Per: Ms. Manorama Kumari, Member (J)]**

1. The instant application is filed by the Resolution Professional (hereinafter referred as RP) seeking order of the liquidation under section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as IB Code). The Applicant is represented through learned counsels.
2. On perusal of the records, it is found that the order in the CP (IB) 116/2017 was passed on 30.11.2017 under section 7 of the IB Code and the process of CIRP was initiated by appointing IRP. Thereafter, the RP made a public announcement and invited Expression of Interest





(hereinafter referred to as EoI). Against invitation of EoI, in all five resolution plans were received from the prospective Resolution Applicants, as per details given below:

- a) Maximus International General Trading LLC. (**Maximus** for Short)
- b) Khemani Distributors and Marketing Limited (Khemani for Short)
- c) OCM Private Limited (OCM for Short)
- d) Mayur Wovens Private Limited (Mayur for Short)
- e) Shyam Metalics and Energy Limited ( Shyam for Short)

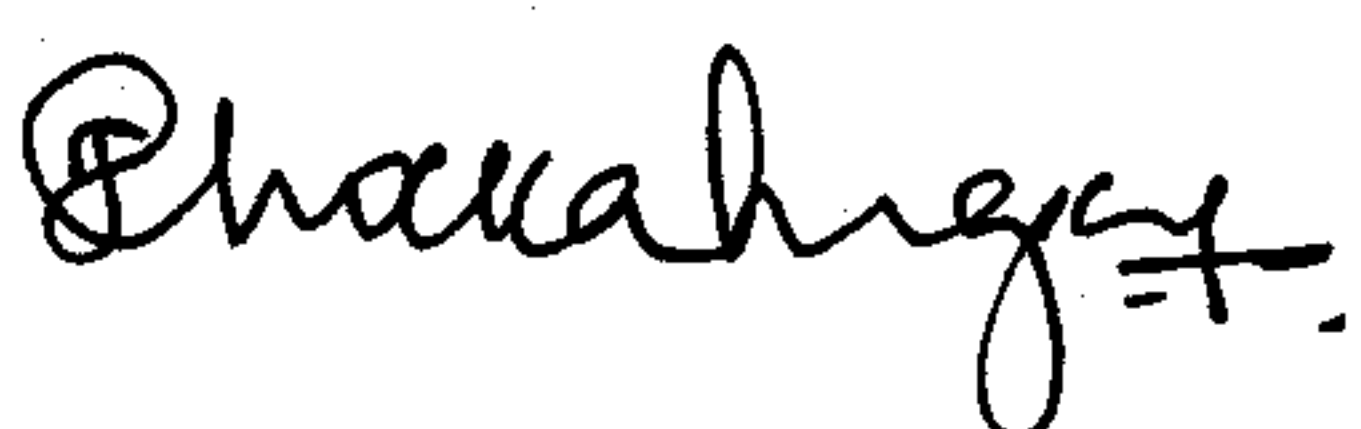
3. After scrutiny of the aforesaid resolution plans by RP, only one resolution plan i.e. of **Maximus** was placed before the Committee of Creditors (hereinafter referred to "CoC") for consideration as the other remaining resolution plans were found below the average liquidation value and hence rejected. The resolution plan of the Resolution Applicant, namely Maximus International General Trading LLC, was placed before CoC. The resolution plan submitted by Maximus was scrutinized and the Resolution Applicant also submitted addendum and thereafter, voting of CoC took place on two occasions. But even then, the resolution plan submitted by Maximus was rejected since the resolution plan could garner only 59.69% of voting of the CoC. The resolution plan submitted by Maximus with 4<sup>th</sup> addendum was placed before CoC for the second time but the same was again rejected in view of 59.69% voting in favour of the proposed resolution plan. Since, the proposed resolution plan submitted by the Resolution Applicant namely **Maximus** could not fetch the requisite votes in favour of the resolution plan, the CoC decided to go for liquidation as 270 days of CIRP has already expired on 27.08.2018.

4. Accordingly, the conducting lawyer on behalf of the RP submitted that he has also issued E-mail to the member(s) of the CoC informing them with regard to the process of liquidation. Since the Corporate Debtor Company is listed company, the RP has also informed the BSE prior to and post filing of the instant application. So far, no representation has been received. Since, members of CoC are present in all the meetings, it is concluded that CoC would have knowledge with regard to the filing of liquidation application in the event of not getting any resolution plan.






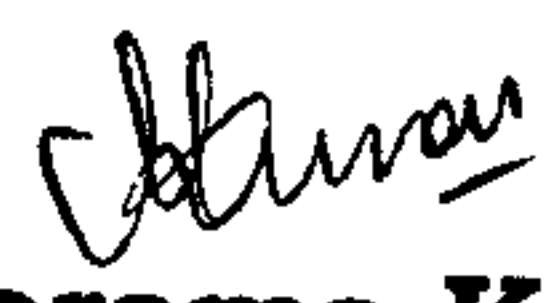
5. In view of the above mentioned facts, the application so filed by the RP is allowed. Since the name of the liquidator has not been proposed by the CoC, the RP may continue as liquidator in view of his consent filed with the instant application.
6. Further, it is an undisputed fact that Corporate Debtor Company is a going concern and the employees who are working with the Corporate Debtor Company has approached this Tribunal vide Intervening Petition No. P. 76/2018 in the present matter. Section 33(7) of the IB Code provides that order of liquidation 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 regulator. Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 provides the manner in which sale of assets of the Corporate Debtor Company during liquidation process shall take place which inter alia includes sale by way of slump sale meaning thereby, transfer of an undertaking as a whole. In view of the order of the Hon'ble Supreme Court in a case of Allahabad Bank vs. ARC Holding Ltd. {[2000] 28 SCL 394 (SC) (para 19)}, we pass the following orders:
- a) The Liquidator shall try to dispose of the Corporate Debtor Company as a going concern after publication of notice in newspaper(s) with the reserve price which shall be equal to the total debt amount including interest and allow maximum period applicable for the sale of the Corporate Debtor Company as a going concern, which will be applicable for three months only from the date of the order. If the process of sale as a going concern is failed during this period, then process of sale of the assets of the Corporate Debtor Company will be according to the provisions contained in Chapter VI of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. In case it is not concluded within this period, the order of this Tribunal directing the sale of the Corporate Debtor Company as a going concern shall stand set aside and Corporate Debtor Company to be liquidated in the manner as laid down in chapter III of the Liquidation Process as provided in IB Code.





- b) The Liquidator is further directed to issue public announcement stating that the Corporate Debtor is in liquidation.
- c) It is also ordered that copy of the order be sent to the Registrar of Companies with which the Corporate Debtor is registered.
7. Accordingly, the instant IA stands disposed of with the above observations.

  
**Chockalingam Thirunavukkarasu**  
**Adjudicating Authority**  
**Member (Technical)**

  
**Ms. Manorama Kumari**  
**Adjudicating Authority**  
**Member (Judicial)**

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