

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
Court 2**

Free of Cost Copy

3783  
22/07/2020

**IA 326 of 2020 in CP (I.B) No. 88/NCLT/AHM/2019**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 17.07.2020**

Name of the Company: Manishkumar Bhagat RP For Shree  
Narmada Architectural Systems Ltd  
V/s

Deepak Bhuralal Patel & Ors

Section : Section 33(1),(2) & (3) IBC,2016

| S.NO. | NAME (CAPITAL LETTERS) | DESIGNATION | REPRESENTATION | SIGNATURE |
|-------|------------------------|-------------|----------------|-----------|
| 1.    |                        |             |                |           |
| 2.    |                        |             |                |           |

**ORDER**

(Through video conferencing)

None present for the parties.

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

*Manorama*  
**MANORAMA KUMARI  
MEMBER (JUDICIAL)**

Dated this the 17th day of July, 2020



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

**I.A. No. 326 of 2020  
in  
CP(IB) No. 88 of 2019**

**In the matter of:**

Manish Kumar Bhagat,  
Interim Resolution Professional  
For Shree Narmada Architectural Systems Ltd.

...Applicant

**Versus**

Deepak Bhuralal Patel & Ors.

... Respondent

**In the matter of:**

Indu Corporation Pvt. Ltd.

...Operational Creditor

**Versus**

Shree Narmada Architectural Systems Ltd.

...Corporate Debtor

**Order delivered on 17<sup>th</sup> July, 2020**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)**

**Appearance:** None Present.

**ORDER**

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

1. The Applicant, Interim Resolution Professional (hereinafter referred as "IRP") of the Corporate Debtor filed the instant IA No. 326 of 2020 in the aforesaid Company Petition (IB) No. 88 of 2019 for liquidation of the Corporate Debtor under section 33 (1), (2) & (3) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IB Code") and for the appointment of Manish Kumar Bhagat as the Liquidator.



*Manu*



2. The facts of the case are stated herein:

- 2.1 CP(IB)No. 88 of 2019 filed by Operational Creditor, namely Indu Corporation Pvt. Ltd., against the Corporate Debtor viz., Shree Narmada Architectural Systems Ltd. under Section 9 of the IB Code, seeking initiation of Corporate Insolvency Resolution Process (hereinafter referred as "CIRP") which was admitted by this Adjudicating Authority vide its Order dated 10.12.2019 and appointed the Applicant, Manish Kumar Bhagat as Interim Resolution Professional (hereinafter referred as "IRP") of the Corporate Debtor.
- 2.2 It is stated in the application that Committee of Creditors (hereinafter referred as "CoC") in its First Meeting held on 08.01.2020 decided for replacement of the IRP. However, till the new RP takes the charge, IRP shall continue to perform his duties.
- 2.3 It is stated by the Applicant that claims have been received and admitted. In the Second CoC meeting held on 20.02.2020, since no Resolution Plan was expected, CoC decided to file an application for Liquidation of the Corporate Debtor through IRP under section 33 of the IB Code.

3. Heard the applicant and also seen the records, it is found that claims have been received and admitted, and there was no expectation of receiving any Resolution Plan. Therefore, the CoC has resolved for liquidation of the Corporate Debtor vide its 2<sup>nd</sup> meeting dated 20.02.2020. It is also to be noted that this Adjudicating Authority has no jurisdiction to interfere in the commercial wisdom of the CoC as observed in **K. Sasidhar's** case and subsequently also reiterated by Hon'ble Supreme Court of India in its judgement passed in Civil Appeal No.8766-67 of 2019- **Committee of Creditors of Essar Steel India Limited through Authorised Signatory vs. Satish Kumar Gupta &Ors** observed as follows:



*"The commercial wisdom of the Committee of Creditors cannot be interfered into by the Adjudicating Authority. The Hon'ble Supreme Court affirmed K. Sashidhar's judgement that neither the Adjudicating*

*Manish*

*Authority nor the Appellate Authority has been endowed with the jurisdiction to reverse the commercial wisdom of the CoC.*

*The Hon'ble Supreme Court took the view that the commercial wisdom has been exercised by the CoC after taking into count all the factors leading to maximisation of asset value of the Corporate Debtor, but the ultimate discretion of what to pay and how to pay each class or sub-class of creditors lies with the CoC."*

4. Under the facts and circumstances as narrated above, we pass the following orders:

- a) The moratorium declared under Section 14 of the IB Code shall cease to have effect from the date of the order of liquidation.
- b) The Liquidator is further directed to issue public announcement stating that the Corporate Debtor is in liquidation.
- c) The Liquidator is required to send certified copy of this order to the authority with which the Corporate Debtor is registered.
- d) Subject to Section 52 of the IB Code, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- e) This Authority makes it clear that para (d) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- f) The Order 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 Liquidator.



*Chatur*



- g) All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Company Liquidator. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the IB Code, 2016, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- h) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- i) The Company Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board.
- j) The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, registered office of the Corporate Debtor and Company Liquidator for information and compliance
5. Hence, the IA 326 of 2020 in CP(IB) 88 of 2019 so filed by the IRP under Section 33 of the IB Code, 2016 is allowed and the Adjudicating Authority passes an order for initiation of liquidation of the Corporate Debtor viz., Shree Narmada Architectural Systems Ltd. The IRP i.e. Manish Kumar Bhagat, shall act as the Liquidator for the purpose of liquidation of the Corporate Debtor.
6. Accordingly, the instant IA is allowed and stands disposed of with the above observations.



Shreya

*Manorama Kumari*  
**MANORAMA KUMARI**  
Adjudicating Authority  
Member (Judicial)

