

DIVISION BENCH

ITEM NO.108

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ**

**IA No.135/2022, IA No.188/2022, IA No.551/2023 & IA No.630/2023
IN CP (IB) No.94/ALD/2019**

CORAM:

- 1. SHRI PRAVEEN GUPTA,
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI ASHISH VERMA,
HON'BLE MEMBER (TECHNICAL)**

Date of Order: 01st April, 2024

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	M/S R P CHEMICALS V/S M/S GREATER ARAFAT TANNERS PVT LTD
UNDER SECTION	9 IBC (IN CIRP)

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Ms. Gunjan Jadwani, Adv.

: *For the Applicant/RP in All IAs*

Sh. Shadab Alam, Adv.

: *For the Respondent in IA No.135/2022 &
IA No.551/2023*

ORDER

IA No.630/2023

- 1.** Let the notice be issued in IA No.630/2023.
- 2.** The affidavit of service be filed within a period of one week.
- 3.** After receipt of notice, the reply be filed within a period of two weeks with an advance copy to be supplied to the Ld. Counsel representing the Applicant. Thereafter, if required, the applicant may file rejoinder within one week and pleading may be completed before the next date of hearing.

IA No.551/2023

- 1.** Ld. Counsel representing the Respondent, Sh. Shadab Alam states that he is not in the receipt of the copy of the Application.
- 2.** Let the same be supplied to the Ld. Counsel representing the respondent within a period of one week on the e-mail ID to be shared on the chat box.

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IA No.188/2022

1. This application has been filed U/s 33 (2) of the Code for initiating liquidation process after completion of the mandatory 180 days period for initiation of the CIRP.
2. Notice in this application was issued to the Directors of the Ex-management who chose not to file the reply leading to passing of the order dated 1st December, 2023 to the following effect:-

1. Heard the submissions made by the Ld. Counsel for the Applicant/ RP as well as Ld. Proxy Counsel for the Respondent.

2. Respondents have not yet filed their reply in this matter. Ld. Proxy Counsel may inform the Counsel concerned to take steps to file the reply within next seven days. If reply is not filed within seven days, the opportunity afforded for filing reply will be closed, and then the matter will be proceeded further.

3. Since the passing of the aforesaid order dated 1st December, 2023 also, there is no reply or response whatsoever filed.
4. In view thereof, we have proceeded to hear the application IA No.188 of 2022 and heard the Ld. Counsel representing the Resolution Professional.
5. It is averred in the application as well as also submitted by the Ld. Counsel representing the RP that the CIRP in the present matter has commenced on 22nd December, 2021 and 180 days expired on 19th June, 2022.
6. Prior to the completion of 180 days, efforts had been made by the RP to invite the Expression of Interest by publication of Form G. However, according to the Ld. Counsel, there has been no response received from any interested party for submission of any Resolution Plan with respect to the assets of the Corporate Debtor. And in view thereof, in the third COC meeting held on 25th May, 2022, after considering the Agenda Item No.4, following resolution has been passed:-

The RP apprised the COC regarding progress of CIRP.

As per the audited balance sheet as on 22-12-21, no land and

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building is existing. Further since the corporate debtor is not having any plant and machinery, no manufacturing activities and therefore no longer a going concern. Further no EOI received till last date of submission of EOI (21-03-2022) against the publication of Form G.

The matter was deliberated by the COC in detail and was opined that there is no possibility of receipt of EOI since the corporate debtor having no plant and machinery since disposed off as scrap and is totally un-operational and vacated the leased premises in the Year 2019 in view of UP Pollution Control Board (UPPCB)'s order No. 2248/130/18 dated 28-12-2018 for closure of the leather processing work due to tannery related overflow into the river Ganges, as disclosed by the ex-management of the corporate debtor and the corporate debtor not being a going concern, the Committee of Creditors after detailed deliberations of the view that there is no scope/possibility of the revival of the corporate debtor and therefore there is no option left except to recommended for liquidation of the corporate debtor: Greater Arafat Tanners Private Limited, Kanpur (CIN: U19116UP1989PTC011154). The initial CIRP period of 180 days is due to expire on 19-06-2022.

7. As stated vide aforesaid Agenda Item No.4 which was considered by the COC the reasons for not continuing with the CIRP and to go in for liquidation have been enumerated, particularly, in view of the fact that no manufacturing activities have been carried out as also there is no response received after publication of Form G.
8. The said Agenda Item was finally put to vote and the details of which has been given at Page No.27 of the application, which reads as under:-

The COC asked the RP to put the resolution for the liquidation of the corporate debtor for voting of the COC as per the provisions of the IBC-2016. Accordingly the resolution is placed at B-4 of the Minutes of meeting before the COC for voting during the meeting.

Decision of the committee of creditors to liquidate the corporate debtor.

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Resolved that pursuant to section 33 (2) of the Insolvency and Bankruptcy Code-2016 as amended, consequent upon the first publication of Form G inviting EOI to explore the possibility of revival of the corporate debtor and non-receipt of Expression of interest (EOI) from any PRA for submission of resolution plan till 21-03-2022, the last date for submission of EOI and further considering that the corporate debtor having no plant and machinery since disposed off as scrap and is totally un-operational and vacated the leased premises in the Year 2019 in view of UP Pollution Control Board (UPPCB)'s order No.2248/130/18 dated 28-12-2018 for closure of the leather processing work due to tannery related overflow into the river Ganges, as disclosed by the ex-management of the corporate debtor and the corporate debtor not being a going concern, the Committee of Creditors after detailed deliberations opines that there is no scope/possibility of the revival of the corporate debtor and therefore considers and hereby approves the resolution for liquidation of the corporate debtor: Greater Arafat Tanners Private Limited, Kanpur (CIN: U19116UP1989PTC011154).

9. The said resolution for Agenda Item No.4 was ultimately approved by 100% voting with the voting result at Page No.32.
10. The Resolution which was put to vote and was finally approved by 100% voting is at Page No.28, whereby it has been resolved to move an appropriate application before the Adjudicating Authority to initiate the liquidation process in the present matter.
11. According to the Ld. Counsel representing the RP that after the resolution has been passed by the COC in its third meeting held as above, the present application has been moved for starting the liquidation process.
12. With respect to the CIRP cost to be paid for the period commencing from the CIRP order dated 22nd December, 2021 till today, the Ld. Counsel representing the RP states that the same would be payable in accordance with the provisions of the Code and the Regulations framed thereunder and

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the RP would continue as a Liquidator.

13. We have considered the above application and in view of the decision of the COC in its third meeting held on 25th May, 2022 and passing of resolution vide Agenda Item No.4 as aforesaid, we are inclined to allow the present application vide IA No.188 of 2022 for initiation of the liquidation process.
14. With respect to the CIRP cost, the same would be liable to be paid as per the provisions of the Code and the Regulations made thereunder. The further proceedings with respect to the liquidation process would continue by the SCC in accordance with law.
15. There is also no specific prayer made with respect to the RP to be appointed as Liquidator, however it is stated by the Ld. Counsel representing the RP that the RP who is already working since his appointment in terms of the CIRP order, may continue as Liquidator.
16. We are inclined to grant the said prayer, let the RP to continue as Liquidator. The liquidation process would be expedited in accordance with the provisions of the Code and Rules and Regulations made thereunder. IA No.188 of 2022 stands allowed in the aforesaid terms.
17. Other IAs are adjourned on 26th April, 2024 for further hearing.

-Sd-
(Ashish Verma)
Member (Technical)

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(Praveen Gupta)
Member (Judicial)

01st April, 2024

Avaneesh Kumar Singh
(Stenographer)