

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 21.09.2020

THROUGH VIDEO CONFERENCING

CAUSE LIST

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. 214/BB/2019	For report of RP IA 395/2020 (Memo) – CIRP	Sec 9 of I&B Code 2016	M/s Madura Coats Pvt Ltd	-	M/s Unitex Apparels Pvt Ltd	Shri Ratnakar Shetty, RP Sneha Nagaraj for RP

ADVOCATE FOR PETITIONER/s:

MR. CHETAN CHANDRASHEKAR – For R.P.

ADVOCATE FOR RESPONDENT/s:

ORDER

Heard Shri Chetan Chandrashekar, learned Resolution Professional, through Video Conference.

I.A No. 395/2020 is disposed of by separate order.

Post the case for report of Liquidator on ~~26.10.2020~~ 21.12.2020.


MEMBER (T)


MEMBER (J)

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

I.A.No.395 of 2020 in
C.P. (IB) No.214/BB/2019
U/s 33(2) of the I&B Code, 2016

Shri Ratnakar Shetty,
Resolution Professional of
M/s. Unitex Apparels Private Limited

F507, Mantri Tranquil Apartment,
Gubbala Gate, Off Kanakapura Road,
Subramanyapura Post,
Bangalore – 560 061

... Applicant/Resolution Professional

Date of Order:21st September, 2020

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

Parties/Counsels Present (through Video Conference):

For theApplicant/RP : Mr. Chetan Chandrashekar

ORDER

Per:Rajeswara Rao Vittanala, Member (J)

1. I.A.No.395of 2020 in C.P.(IB)No.214/BB/2019 is filed by Ratnakar Shetty, Resolution Professional of M/s.Unitex Apparels Private Limited(hereinafter referred to as 'Applicant/Resolution Professional') under Section 33(2) of the I&B Code, 2016, by inter seeking to consider and approve the initiation of Liquidation Process of the Corporate Debtor under I&B Code, 2016; to appoint him as Liquidator of Corporate Debtor.
2. 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.214/BB/2019 filed by M/s.Madura Coats Private Limited 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 29th October, 2019, by initiating CIRP in respect of Corporate Debtor, appointing the Applicant as IRP, imposing moratorium etc. In pursuant to the above order, the IRP issued public announcement in Form A on 08.11.2019 in Financial Express (English) and Vishwavani (Kannada) and intimated the creditors regarding commencement of CIRP against the Corporate Debtor and called upon the creditors to file their claims within the prescribed time limit.

(2) Subsequent to the receipt of claims and their verification, the Committee of Creditors consisting of twenty (20) Financial Creditors was constituted. The claims filed by the Creditors were collated and verified, and COC was constituted. The notice of 1st meeting of COC of the Corporate Debtor along with the agenda was sent to the members of the COC and Directors of suspended Board of the Corporate Debtor on 30.11.2019. The 1st meeting of the COC was held on 06.12.2019. The Ballot voting was conducted on 06.12.2019 and e-voting was closed on 10.12.2019. The COC in the 1st meeting inter-alia passed Resolution approving the appointment of existing IRP as Resolution Professional, the RP submitted his written consent in Form AA and the same was confirmed by the Adjudicating Authority by order dated 30.12.2019.

(3) The Resolution Professional appointed the following Registered Valuers for the purpose of determining the liquidation value of the Company:

For Plant and Machinery:

- (a) Bhageerath Bale Mahabhanu, IBBI/RV/02/2019/10213
- (b) RajkumarSarda, IBBI/RV/02/2019/11533

For Securities or Financial Assets:

- (c) Ramamoorthi Srinivasan, IBBI/RV/06/2018/10080

(d) Raghavendran L, IBBI/RV/02/2019/11383

- (4) The RP prepared the information memorandum as per the provisions of the Code and shared the same with the Creditors of the Corporate Debtor. The Resolution Professional prepared and publishes Invitation for expression of Interest in Form G in Financial Express (English) and VarthaBharthi (Kannada) on 30.01.2020. Further the RP issued notice for 2nd Meeting of COC on 24.01.2020. The 2nd Meeting of COC was held on 31.03.2020, *inter-alia* with the agenda to inform the COC regarding the progress of CIRP, ratify the CIRP costs incurred by the Resolution Professional, minimum eligible criteria for receiving EOI from the Resolution Applicants an appointment of Auditor. M/s Kirtane&Pandit LLP was resolved to be appointed as Auditor for preparation of financial statement of the Corporate Debtor for the year 2017-2018 and 2018-2019.
- (5) The 3rd meeting of COC was held on 28.02.2020, *inter-alia* with the agenda to ratify the CIRP cost and discussion regarding initiation of liquidation was adjourned on request of the largest Creditor of the Corporate Debtor. The RP did not get any enquiry or Application of EOI from any prospective Resolution applicants in response to the invitation for EOI issued by way of public announcement. The RP received queries for purchase of movable assets of Corporate Debtor such as plant and machinery. However, no person showed their interest in providing a resolution for the Corporate Debtor or takeover of the Corporate Debtor a going-concern. Therefore, the RP was constrained to recommend initiation of Liquidation proceedings in respect of Corporate Debtor.
- (6) The RP received claims from various Creditors during the process of CIRP and were verified by the RP. The COC as on 01.06.2020 consists of 25 (Twenty Five) Financial Creditors, amount admitted totalling to Rs.54,05,36,284/- constituting

100%. The RP has also placed on record the present financial status of the Corporate Debtor based on the Financial Statement as on the date of initiation of CIRP i.e. 29.10.2019 where in the total Liabilities amounting to Rs.32,52,13,772/- and total assets amounting to Rs.32,52,13,772/-.

(7) The 4th Meeting of COC was held on 08.06.2020 *inter-alia* with the agenda to review progress and cost of CIRP, fee payable to RP for the lockdown period, rent payable during the lockdown period for Nagarbhavi Plant and to recommend for initiation of Liquidation Process. The agendas were discussed at length and put to vote. In respect of agenda for initiation of Liquidation Process, from and out of the creditors of the Corporate Debtor, 93.63% voted in favour of the Resolution; 0.35% voted against the Resolution and 6.02% abstained from voting. Therefore, the Resolution in respect of initiation of liquidation was passed with the majority of 93.63%. The COC also estimated the cost of liquidation and Financial Creditors agreed to contribute to meet the liquidation expenses since the Corporate Debtor did not have any liquid assets.

3. Heard Shri Chetan Chandrashekar, learned Counsel for the Applicant **through Video Conference**. We have carefully perused the pleadings of the Party and the extant provisions of the Code and the Rules made thereunder.
4. 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 the Applicant with



Registration No. IBBI/IPA-001/IP-P01630/2019-2020/12718 as a Liquidator, for liquidating the Corporate Debtor, who has filed a written consent dated 25th June, 2020 to act as Liquidator of the Corporate Debtor i.e., M/s.Unitex Apparels Private Limited by *inter-alia* declaring that he is serving as an IRP/RP/Liquidator in two proceeding and there are no disciplinary proceedings against him with the Board or Indian Institute of Insolvency Professionals of ICAI etc.Hence, he is provisionally eligible to be appointed as Liquidator. Therefore, we are of the considered opinion that it is a fit case to initiate Liquidation proceedings in respect of Corporate Debtor.

5. 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, dispose of **I.A.No.395 of 2020** in C.P.(IB)No.214/BB/2019 with following directions:
- a) It is hereby ordered that M/s.Untiex Apparels Private Limited, 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 Ratnakar Shetty, the Applicant herein, 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 a copy of this order to all Parties immediately for information and to take necessary action;
- f) Post the case for report of Liquidator on after two months.

(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL

(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

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