

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


**IA 504 /2019 in
C.P. (I.B) No. 408/NCLT/AHM/2018**

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 17.09.2019**

Name of the Company: Hemant Sharma RP for Mhendrakumar Babulal
Jewels Pvt. Ltd.


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

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Nishan Majumdar	Adv.	Petitioner	
2.	Masoom K Shah			

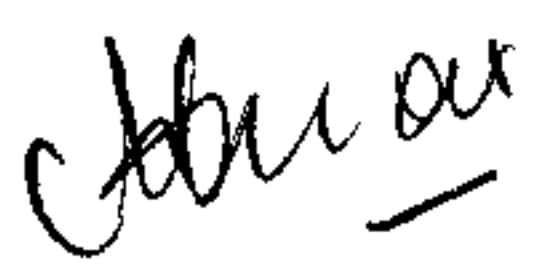
ORDER

The Applicant is represented through learned counsels.

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


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 17th day of September, 2019


MANORAMA KUMARI
MEMBER JUDICIAL

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

**IA No. 504/NCLT/AHM/2019
in
C.P. No. (I.B) 408/9/NCLT/AHM/2018**

Mr. Hemant Sharma
RP for Mahendrakumar Babulal Jewels Pvt. Ltd.Applicant

In the matter of:

M/s D. K. Jewellers Operational Creditor

Versus

M/s Mahendrakumar Babulal Jewels Private Limited
.... Respondents
[Corporate Debtor]

Order delivered 17th September, 2019

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

Appearance: Advocates Mr. Masoom K. Shah is present for the Applicant and Virat B. Shah is present as party in person.

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 counsel.
2. On perusal of the records, it is found that the Company Petition No. 408/2018 was admitted on 16.11.2018 under section 9 of the IB Code and Shri Pinakin Surendra Shah was appointed as Interim Resolution Professional vide order dated 03.12.2018 by this Tribunal. Thereafter, this Tribunal vide its order dated 04.04.2019 appointed the Applicant i.e. Shri Hemant Sharma as RP.
3. In the 4th meeting of Committee of Creditors (hereinafter referred as CoC) held on 20.04.2019, Expression of Interest (EOI) was invited by the RP

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IA No. 504/NCLT/AHM/2019
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from the Prospective Resolution Applicants through publication of Form-G in the newspapers on 24.04.2019.


4. In the 5th CoC meeting held on 31.05.2019, the CoC members resolved to create a corpus of Rs. 8,00,000/- for meeting the CIRP costs and the said amount to be deposited in a separate current account which would be operated by RP. Furthermore, it was also resolved that the said amount shall be repaid to the contributing CoC members in priority to all the financial debts of the Corporate Debtor.
5. In the 6th CoC meeting held on 24.06.2019, under Agenda item no. B3, members of CoC were apprised about the requirement of funds by RP to meet CIRP expenses which have already been incurred and will have to be incurred in due course. Thereby, in this respect and in accordance to Section 5(15) read with Section 28(1)(a) of IB Code, a resolution was passed in the CoC meeting for Interim Finance of Rs. 7,50,000/-.
6. In the 7th CoC meeting held on 24.07.2019, RP apprised CoC about the separate bank account bearing No. 074363300001554 which was opened with Yes Bank Limited at Lajpat Nagar. The RP also informed the CoC members that Directors of the Corporate Debtor Company were not providing books of accounts and various records of the Corporate Debtor Company. In this respect, the RP filed an application under Section 19(2) read with Section 17(1) of the IB Code with this Tribunal.
7. In the 8th CoC meeting held on 12.08.2019, CoC members approved the CIRP cost which was incurred by RP for the period 04.04.2019 to 12.08.2019, while conducting CIRP of the Corporate Debtor Company such as professional fees paid/to be paid to the Registered Valuers, Accountant and other expenses, etc.
8. On perusal of the records, it is found that RP preferred an application under Section 12 of the IB Code for extension of CIRP by 90 days on 27.05.2019. The said application was allowed by this Tribunal on 27.05.2019 thereby extending the CIRP by 90 days beyond 180 days.
9. Even after extension of time for Corporate Insolvency Resolution Process, when no viable Resolution Plan was received and CIRP expired on 13.08.2018, the RP filed the instant application on 19.08.2019 as per the


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decision of the CoC taken in its meeting held on 12.08.2019 for liquidation of the Corporate Debtor Company.

10. Considering all the above facts and documents annexed with the application, this Adjudicating Authority is of the considered view to pass an order of Liquidation in respect of the Corporate Debtor Company i.e. M/s Mahendrakumar Babulal Jewels Pvt. Ltd. and hereby appoints the Resolution Professional as 'Liquidator' under Section 34(1) of the IB Code.
11. In view of the order of the Hon'ble Supreme Court in the case of **Allahabad Bank vs. ARC Holding Ltd.**, {[2000] 28 SCL 394 (SC) (para 19)}, we pass the following orders:
- a) The Liquidator, as far as possible, shall try to dispose of the Corporate Debtor Company as a going concern after publication of notice in newspaper 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.
12. Accordingly, the instant IA stands disposed of with the above observations.


Chockalingam Thirunavukkarasu
Adjudicating Authority
Member (Technical)


Ms. Manorama Kumari
Adjudicating Authority
Member (Judicial)