

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**AHMEDABAD**

**DIVISION BENCH**

**COURT - 1**

ITEM No.155

IA/776(AHM)2021 in CP(IB) 563 of 2019

**Order under Section 33(2) r.w 60(5) IBC, 2016**

**IN THE MATTER OF:**

Jaykumar Pesumal Arlani RP of Shree Raghuvanshi Fibers  
Pvt Ltd.

.....Applicant

**Order delivered on ..30/08/2022**

**Coram:**

Dr. Madan B. Gosavi, Hon'ble Member(J)

Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in open Court vide separate sheet.

**-SD-**

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

**-SD-**

**DR. MADAN B. GOSAVI  
MEMBER (JUDICIAL)**

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**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-1**

**IA 776 OF 2021  
IN  
CP (IB) NO. 563/NCLT/AHM/2019**

**IN THE MATTER OF:**

**JAIKUMAR PESUMAL ARLANI,  
RESOLUTION PROFESSIONAL OF  
SHREE RAGHUVANSHI FIBRES  
PRIVATE LIMITED**

IBBI/IPA-001/IP-P01582/2018-  
2019/12443

ARLANI NIVAS, 10, GAYAKWADI,  
JUNCTION PLOT,  
RAJKOT, GUJARAT, 360001

**... Applicant**

**IN THE MATTER OF:**

**MANISHBHAI BAGHABHAI AAHIR**

**...Operational Creditor**

**Versus**

**SHREE RAGHUVANSHI FIBERS PRIVATE LIMITED**

**... Corporate Debtor**

Order Pronounced on: 30.08.2022

**Coram: Dr. Madan Bhalchandra Gosavi- Member (Judicial)  
Mr. Kaushalendra Kumar Singh- Member (Technical)**

**Appearance:**

Mr. Dheeraj Garg, Advocate, for the RP.

**ORDER**

1. The instant application is filed by the Resolution Professional of Shree Raghuvanshi Fibers Private Limited under section 33(2) read with 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as “IB Code”) for liquidation of the Corporate Debtor.
2. The Main Company Petition being CP (IB) No. 563 of 2019 was filed by Operational Creditor, namely Mansihbhai Baghabhai Aahir, (operational creditor) against the Corporate Debtor viz., Shree Raghuvanshi Fibers Pvt. Ltd. under Section 9 of the IB Code, seeking initiation of Corporate Insolvency Resolution Process (hereinafter referred as “CIRP”). The said application was admitted by this Adjudicating Authority vide its Order dated 18.02.2020 and Mr. Divyang Pareshrai Majumdar was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor.
3. The IRP made the public announcement of initiation of CIRP of Corporate Debtor, as mandated under Section 15 of the Code and in terms of Regulation 6(1) of the CIRP Regulations, and invited the claim(s) from creditor(s) on 03.03.2020.
4. The IRP Mr. Divyang Majumdar had filed an application before this Tribunal vide IA 276 of 2020 in CP (IB) 563 of 2019 for allowing him to resign as IRP of the Corporate Debtor. Mr.

Majumdar wanted to get relieved from the CIRP on grounds of his ill health. Hence this Tribunal vide order dated 16/06/2020 relieved the earlier IRP from his duties. Vide order dated 22/06/2021 in IA No. 398 (AHM) 2021, this Adjudicating Authority appointed Mr. Jaykumar Pesumal Arlani (the Applicant) having Registration No. IBBI/IPA-001/IP-P01582/2018-2019/12443 as IRP.

5. Based on the proof of claims and supporting documents Bank of Baroda was found to be eligible under Section 21 of the Code, to be a part of the CoC of the Corporate Debtor.
6. As per the provisions of the Code and CIRP Regulations framed therein, the Committee of Creditor ("COC") was constituted by the IRP on 10.07.2021 with Bank of Baroda as sole members of Committee of Creditor ("COC"). Subsequently, the IRP filed its Report dated 13.07.2021 under Regulation 17(1) of the CIRP Regulation.
7. During the 1st CoC meeting. The CoC was informed about the business of the Company, its current status and work undertaken by the IRP, till then. The COC was informed that as per the information received from the management, the Company was suffering from several setbacks and has not conducted any production activities since 5-6 years. As per the records of MCA, the last balance-sheet filed by the company is as on 31-03-2016.

Further, it was discussed and deliberated that there is no running units of the Corporate Debtor. As per the information received from the management, the plant is in-operational since many years and since the Corporate Debtor plant is in-operational, there are currently no employees or workmen in the company.

8. The IRP informed the CoC that the Company is not a going concern. The CoC further discussed and deliberated upon the idea of reviving the Company. However, there was no such solution available to revive the Company. After various discussions and deliberations, the CoC came to the conclusion that since the Company is not a going concern and doesn't have an operational unit, it is better to go for liquidation directly as there are no chances of revival of the Company. The Sole Member of the COC requested the IRP to go for liquidation directly.
9. Accordingly, it was discussed and deliberated that there is no running units of the Corporate Debtor. Also, no claims have been received from any past employees/workmen. After the discussion the Applicant took the approval of the COC for proceeding with filing an application for Liquidation, which was duly approved by the COC by casting 100% votes on the same. Thereafter necessary resolutions were produced before this Tribunal i.e. approval of resolution and liquidation of Corporate Debtor were

put for voting by COC via e-voting, pursuant to provision of section 33 (2) of IBC 2016, consent of Committee of Creditors be and is hereby accorded for liquidation of Shree Raghuvanshi Fibers Private Limited - Corporate Debtor and Mr. Jay Kumar Arlani, Resolution Professional, authorized to intimate the Adjudicating Authority about the decision of the committee of creditors to liquidate the corporate debtor"

10. It is submitted that the CoC in its 2<sup>nd</sup> meeting dated 17.03.2022 passed a following resolution and also submitted the plan for contribution to the shortfall in the liquidation cost.

- “Approximate costs of liquidation will be Rs. 8.55 Lacs other than the Liquidator Fees.
- There are no liquid assets; therefore, all the Liquidation costs will be borne by the CoC/ Financial Creditors.
- Liquidation costs will be contributed by the CoC/Secured Financial Creditors in the ratio of their admitted claims on actual basis as and when incurred.”

11. The Resolution Professional has produced the list of assets of Corporate Debtor along with additional affidavit before this Tribunal.

12. Heard learned counsel for the Applicant and perused the material on record. It is noted that the Corporate Debtor is not a going concern and the CoC was informed that as per the information

received from the management, “the Company was suffering from several setbacks and has not conducted any production activities since 5 – 6 years. As per records of MCA balance sheet filed by the Corporate Debtor is as on 31.03.2016. Head office premises of the Corporate Debtor were not owned by the company and currently no operations are being done at the place. Main asset of the Corporate Debtor is Cotton ginning production factory unit having land, building and machinery which is in-operational since many years.” hence there is no chance to receive a plan to resolve the Corporate Debtor.

13. Accordingly, we allow this present application and pass the following order:

**ORDER**

- 1) We hereby order the liquidation of the Corporate Debtor Shree Raghuvanshi Fibres Pvt. Ltd. having CIN No. U17120GJ2007PTC051651 and allow IA No. 776 of 2021. The liquidation of the Corporate Debtor is effective from the date of this order.
- 2) The Moratorium declared vide order dated 18.02.2020 in CP (IB) No. 563/NCLT/AHM/2019, henceforth, cease to exist.
- 3) Mr. Jaikumar Pesumal Arlani, having Registration No. IBBI/IPA-001/IP-P01582/2018-2019/12443 is the

Liquidator of the company Shree Raghuvanshi Fibres Pvt. Ltd, having CIN No. U17120GJ2007PTC051651 who shall complete the liquidation process as per the provisions of Insolvency and Bankruptcy Code, 2016 r.w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- 4) All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth vest with the Liquidator.
- 5) It is directed that the Liquidator may first explore to sell the Corporate Debtor as a going concern, in compliance with the provisions of Regulation 39(c) of IBBI CIRP Regulation, 2016.
- 6) The personnel of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- 7) The Liquidator will charge fees for conduct of the liquidation proceedings as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
- 8) That once liquidation process is initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, while the liquidator shall have liberty to institute suit or other legal

proceeding on behalf of the corporate debtor with the prior approval of this Adjudicating Authority, as provided in subsection (5) of Section 33 of the IB Code.

- 9) This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- 10) The Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Companies, and Liquidator by Speed-post within one week from this order.

Accordingly, the present I.A. No. 776 of 2021 in CP (IB) 563/NCLT/AHM/2019 stands disposed of.

**-SD-**  
**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

**-SD-**  
**DR. MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**