

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

**M. A. No. 2700/2019
In
C. P. No. 396/I&B/2018**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of

Reliance Commercial Finance Ltd.

... Financial Creditor

V/s.

Fibertech Infracon Pvt. Ltd.

... Corporate Debtor

M.A. No. 2700/2019

Mr. Harshad Deshpande

... Applicant/
Resolution Professional

Order delivered on 05.12.2019

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

For the Applicant: Mrs. Khushoo Shah Rajani, Advocate, i/b. AKR
Advisors LLP

Per Shri Bhaskara Pantula Mohan, Member (Judicial)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor namely M/s. Fibertech Infracon Pvt. Ltd. The Adjudicating Authority vide its order dated 17.01.2019 on a Petition filed by the financial Creditor under Section 7 of the Code, wherein Mr. Manoj Kulsrestha, was appointed as Interim Resolution Professional (IRP). Thereafter on 26.02.2019 in the 1st Committee of Creditors (CoC) meeting Mr. Harshad Deshpande, was resolved to be appointed as Resolution Professional (RP) and the same was approved by this Bench vide order dated 08.04.2019.

2. The RP submits that the public announcement was made on 31.01.2019 and 01.02.2019 one in "Times of India" in English and "Maharashtra Times" in Marathi, fixing 11.02.2019 as the last date for



submitting the claim. Subsequently, the IRP constituted the CoC. The Reliance Commercial Finance Ltd. is the sole financial creditor.

3. The RP submits that, IRP had appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation. It is further submitted that an advertisement was issued, inviting Expression of Interest in Form G on 13.04.2019 fixing 28.04.2019 and as last date for submission of Expression of Interest by the Prospective Resolution Applicants.
4. The RP submits that the 3rd CoC meeting held on 14.05.2019, was decided that the pursuance to the publication of invitation for Expression of Interest on 13.04.2019 in form G, only one Expression of Interest was received from Mr. S. C. Agarwal. Thereafter, the prospective resolution applicant was provided with the information, evaluation matrix and others necessary documents, but till 10.06.2019 the last date for submission of Resolution plan, no resolution plan was submitted by the prospective resolution applicant.
5. The Resolution Professional submits that in the 5th CoC meeting held on 10.07.2019, the CoC having 100% voting rights passed a resolution for liquidating the company in view of the fact that no Resolution Plan was received. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
6. The Applicant/ Resolution Professional Ms. Rekha Kantilal Shah, has agreed to act as liquidator to carry on the process of liquidation and given her consent to act as Liquidator.
7. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, the RP has complied with the procedure laid down under, the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), on verification of the papers/ documents placed before this Bench, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has



been approved by the Adjudicating Authority and accordingly, this Bench orders;

- a. that the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
 - b. that the Ms. Rekha Kantilal Shah, Registration No. IBBI/IPA-001/IP-P00776/2017-18/11349, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
 - c. all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
 - d. that the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - e. that the liquidator will charge fees for conduct of the liquidation proceedings ₹1,00,000/- per month (excluding any out of pocket expenses incurred during the Liquidation Process) as decided by the CoC.
 - f. that on having liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
 - g. This liquidation order shall be deemed to be a 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.
8. Consequently, as stated supra, Resolution Professional is appointed as the Liquidator as provided under section 34(1) of the Code. All 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 liquidator;



9. Accordingly, this Misc. Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Sd/-


SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sg/-

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)



Certified True Copy
Copy Issued "free of cost"
On 12/12/2019

Assistant Registrar
National Company Law Tribunal Mumbai Bench