

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 17.02.2023 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)No.19/10/AMR/2022	Main Case	10 of IBC	Kumar's Kotex Limited (Corporate Applicant)
	IA(IBC)/50/2023	Sec. 33 of IBC	Mr. Raghu Babu Gunturu, RP of Kumar's Cotex Limited

ORDER

IA(IBC)/50/2023:

Ms. Aishwarya, Counsel for the Applicant present. IA(IBC)/50/2023 is allowed, vide separate orders.

**Sd/-
JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

RSN

NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI

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IA(IBC)/50/2023
IN
CP (IB)/19/10/AMR/2022

Under Section 33 and 34 of the Insolvency and Bankruptcy Code, 2016

In the matter of
M/s. KUMAR'S COTEX LIMITED

BETWEEN:

Kumar's Cotex Limited
Represented by its Resolution Professional
Mr.Raghu Babu Gunturu
Registered Office at Dokiparru Village,
Medikonduru Mandal, Krishna District,
Andhra Pradesh -5213312.

... Applicant/ Resolution Professional

Date of Pronouncement of Order: 17.02.2023

CORAM:

Justice Telaprolu Rajani, Member Judicial

Appearance:

For Applicant/RP: Mr.V.V.S.N.Raju, Advocate.

Per: Justice Telaprolu Rajani, Member Judicial

ORDER

1. This is an Application filed by the Resolution Professional under Section 33 and 34 of the Insolvency and Bankruptcy Code, 2016 (the Code) seeking orders for Liquidation of the Corporate Debtor ("CD")

i.e., **M/s. Kumar's Cotex Limited** and seeking to appoint Mr.Raghu Babu Gunturu (I.P.No.**IBBI/IPA-002/IP-N00025/2016-2017/10053**) as the Liquidator of the CD.

2. The facts of the Application, briefly, are as follows:

- I. The NCLT, Amaravati vide order dated 05.05.2022 admitted the Petition i.e., CP (IB)/19/10/AMR/2022 under Section 10 of the Insolvency Bankruptcy Code, 2016 initiating Corporate Insolvency Resolution Process (CIRP) of **M/s. Kumar's Cotex Limited** and appointed Mr.Raghu Babu Gunturu, as the Interim Resolution Professional (IRP) and directed him to take charge of the CD and take necessary steps in furtherance of CIRP. Hence, the Applicant published Form G, inviting Expression of Interest (EoI) and the last date of submission of EoI on 03.08.2022. In response to the Form G, the Applicant received plans from only two Prospective Resolution Applicants (PRAs). Vide order dated 23.08.2022, this Bench appointed Mr.Raghu Babu Gunturu, IRP as the RP (Resolution Professional) for the CD.

- II. The Committee of Creditors (CoC), through circular dated 26.08.2022 passed a resolution to extend the last date of the EoI to 12.09.2022. Accordingly, the Applicant issued revised EoI in Form G and the last date of submission of Resolution Plan is fixed as 22.10.2022. In response to the issuance of Form G, the Applicant received EoIs from 4 PRAs i.e., 1) PD Garg Trading and Manufacturing Pvt Ltd; 2) Live India Ventures and Estates;

3) Nakshatra Corporate Advisors Limited & 4) KK Spintex India Pvt Ltd.

- III. In the 5th CoC meeting which was held on 14.10.2022, the CoC observed that the CIRP period ending on 01.11.2022. The CoC informed the Applicant that they need some more time to discuss, negotiate and vote on the Resolution Plans received from 4 PRAs which are not sufficient and hence, the CoC directed the Applicant to file an application for extension of CIRP period. Vide order dated 27.10.2022, this Bench allowed the IA(IBC)/276/2022 and extended the CIRP period till 30.01.2023.
- IV. The Applicant obtained valuation of assets of the CD (land and buildings, plant and machinery) from two registered valuers and the Applicant appointed a transaction auditor and the audit report concluded for a fraudulent transactions done by the Suspended Directors of the CD during the year 2005 for sale of land of the CD (which is given as security to Secured Financial Creditors (SFCs)) without obtaining NoC from SFCs and hence the Applicant filed an Application for fraudulent transaction by the suspended directors.
- V. The Applicant received only 3 PRAs and the same were placed before the CoC in the 6th CoC meeting held on 03.11.2022. The CoC evaluated the plan terms and had several rounds of negotiations for better resolution amount. Only two Resolution Applicants (RAs) agreed and submitted their revised plans.

- VI. In the 9th CoC meeting held on 21.01.2023, the CoC disused the plans submitted by PD Garg Trading and Manufacturing Pvt Ltd and KK Spintex India Private Limited. The CoC rejected both the Resolution Plans with 100% voting and in the same meeting the CoC approved for Liquidation of the CD with 100% voting and approved the appointment of Mr.Raghu Babu Gunturu as Liquidator for the CD.
- VII. The valuation of the CD for both the class of assets for land and buildings and plant machinery average of two valuers is fair market value is Rs.13.61 Crores and Liquidation value is Rs.10.11 Crores.
3. Hence the Applicant came up with this application seeking for liquidation of the CD and appoint him as Liquidator.
4. From the above, it would appear that despite all possible steps as required under the Code, taken during the CIRP, the CoC did not receive any viable proposal for revival of the Company.

ORDER

5. In view of the facts stated in the Application, this Tribunal allows the Application with the following directions.
- a) Mr.Raghu Babu Gunturu (I.P.No.**IBBI/IPA-002/IP-N00025/2016-2017/10053**); having office at Plot No.9, Golden Heights, Near Raidurg Metro, Opposite: Raheja Mind Space,

Hyderabad -500081; e-mail: **raghu@ezresolve.in**; Mobile: +91 **9848027782** is appointed as the Liquidator. No disciplinary proceeding is pending against him as per the IBBI website.

- b) He shall issue public announcement stating that Corporate Debtor is in Liquidation.
- c) The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- d) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- e) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- f) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- g) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.

- h) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
 - i) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the Liquidation process by the Liquidator.
 - j) Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Andhra Pradesh, the Registered Office of the Corporate Debtor; and the Liquidator.
6. With the above directions IA(IBC)/50/2023 in CP(IB)/19/10/AMR/2022 is disposed of. Hence this Order.

Sd/- Dated 17.02.2023

JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu