NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COURT- V

5) IA/2320/2022
C.P. (IB)/54(MB)2021

CORAM:

SMT. ANURADHA SANJAY BHATIA
Member (Technical)

SHRI H. V. SUBBA RAO
Member (Judicial)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **26.08.2022.**

NAME OF THE PARTIES: Jinvik Exports Private Limited

VS

Oshiya Industries Private Limited

UNDER SECTION 7 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

IA 2320 OF 2022:

Mr. Amir Arsiwala, Advocate appearing for the Applicant is present through virtual hearing. The above application has been filed seeking to withdraw the name of IRP as Mr. Prabhakar Kumar, Interim Resolution Professional decided to withdraw his consent to act as IRP vide Withdrawal letter dated 17.01.2022.

The Applicant filed an additional submission on 27.01.2022 wherein a proposal was made to appoint Mr. Mukesh Kumar Jain in the place of Mr. Prabhakar Kumar as the IRP.

Accordingly, this Bench **allows** the above application and appoints Mr. Mukesh Kumar Jain (IBBI/IPA-001/IP-P01236/2018-2019/11944) as the new IRP in the place of Mr. Prabhakar Kumar in the order dated 21.07.2022. The rest of the order remains unchanged.

SD/-

ANURADHA SANJAY BHATIA
Member (Technical)

SD/-

H. V. SUBBA RAO
Member (Judicial)

/n/k/

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH COURT V

C.P. No. 54/IBC/MB/2021

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

Jinvik Exports Pvt. Ltd.
Having Address at: Plot No. 333, C/o Mahalaxmi Flour Mill, Atta Mill Compound, Nirmal Nagar, Main Road, Bhavnagar, Gujarat - 364001

…Financial Creditor

Vs

Oshiya Industries Pvt. Ltd.
Office no. 72. 7th Floor, Atlanta Building Nariman Point Mumbai City MH – 400021.

…Corporate Debtor

Order delivered on: 21.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Petitioner: Adv. Amir Arsiwala

For the Respondent: None appeared

1. The above Company Petition is filed by *Jinvik Exports Pvt. Ltd.* hereinafter called as Financial Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against *Oshiya Industries Pvt. Ltd.* called as Corporate Debtor by invoking the provisions of Section 7 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Financial Debt of Rs. 22,42,372/ (Principal amount Rs 16,50,000 along with interest Rs. 5,92,372).

2. Mr. Amir Arsiwala, Counsel appearing for the Petitioner is present. None appeared for the Corporate Debtor. The Counsel for the Petitioner brought to the attention of the reply filed by the Corporate Debtor wherein the Corporate Debtor committed to make a payment of Rs. 16.50 lacs at the earliest i.e., within the period of 18 to 20 months. Since it is very clear from the reply that the Corporate Debtor is clearly admitting the debt and default, this Bench is left with no option but to admit the Petition. Accordingly, the above Company Petition is admitted.

ORDER

a. The above Company Petition No. (IB) 54 (MB)/2021 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Oshiya Industries Private Limited.
b. Since the Financial Creditor suggest the name of the Interim Resolution Professional (IRP) in the petition, this Bench is hereby appointing **Mr. Prabhakar Kumar** (prabhakar_acs@rediffmail.com) (Mobile No. 7502044111)

Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00774/2018-2019/12373 as the interim resolution professional from the panel furnished by IBBI to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only for meeting the expenses and not towards his fee till his fee is decided by CoC.

d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central

Government in consultation with any financial sector regulator.

g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
k. Accordingly, this Petition is admitted.
l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-	SD/-
ANURADHA SANJAY BHATIA MEMBER (TECHNICAL)	H. V. SUBBA RAO MEMBER (JUDICIAL)