NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH,
COURT-IV

22. IA-1513/2020 IN
C.P. (IB)/4493(MB)2018

CORAM:

SHRI RAJESH SHARMA
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **25.04.2022**

NAME OF THE PARTIES: Aadilaxmi Trading Co.
V/s
Bhadramaruti Concast Pvt Ltd

SECTION 9 APPLICATION UNDER ANY OTHER PROVISIONS IBC, 2016

ORDER

The Court is convened through Video Conference.

1. Ms. Nutan Powle, Ld. Counsel for the Resolution Professional present. Mr. Laxman Pawar, RP present in person.
2. **IA-1513/2020:** This is an application filed by Mr. Laxman Digambar Pawar Applicant/Resolution Professional, seeking liquidation of Bhadramaruti Concast Private Limited, under Section 33(1) (a) and 34(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code").

3. **The brief facts of the Application are as follows:**

   A. That this Tribunal vide an order dated 04.02.2020 in Company Petition No. 4493/2018 admitted the petition under Section 9 of the Code, filed by Aadilaxmi Trading Co. (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (CIRP) was initiated against Bhadramaruti Concast Private Limited, (hereinafter called as the "Corporate Debtor"). The Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order.

B. The Applicant Submits that, the IRP had made Public announcements through Form A dated 20.02.2020 in Business Standard (English Newspaper) inviting the claims from the Creditors of the Corporate Debtor as per the Regulation 6(3) of the Insolvency and Bankruptcy Board of India (Insolvency Regulation Process for Corporate Persons) Regulations,2016.

C. The applicant submits that, in the 1st COC meeting dated 12.03.2020 in which the COC approved resolution allowing IRP to continue as Resolution Professional. The List of financial Creditors Constituting the COC and their voting share is enclosed with the Petition.

D. The two valuers were appointed namely, Mr. Atul Shukla and Mr. Sanjay Oswal to determine the Liquidation value of the Corporate Debtor in accordance with Regulation 27 r/w Regulation 35 of IBBI Regulations, 2016; based on the valuation given by the values for only one plot of Leased Land from MIDC, RP determine the average value of two valuers as Rs.2,13,76,000 as fair market value and Rs.1,54,82,950 as liquidation value.

E. In the second CoC meeting held on 22.06.2020 the RP prepared and circulated the information memorandum containing matters referred to in Regulations 36(1)(a) of IBBI Regulations 2016.

F. In the 2nd meeting the committee of creditors disapproved the request for expression of interest for seeking resolution plan as there are no employees and company's operations are closed since 2015. Further, there are no assets available except leased land. After detailed discussions and voting of 100% in favour of resolution by COC members, following resolution was passed:

> *"RESOLVED THAT the Committee of Creditors approved the initiation of liquidation of the Corporate Debtor as there are no employees and companies' operations are closed since 2015. Further there are no assets available except leased land."*

"FURTHER RESOLVED THAT Resolution Professional is hereby directed to file interlocutory application and seek the further direction and order under section 33(2) and 34(1) of the code from the Hon'ble NCLT, Mumbai."

"FURTHER RESOLVED THAT present RP has submitted his consent to act as liquidator and hereby it approved the fess prescribed under regulation 4(2)(b) of IBC, 2016".

"FURTHER RESOLVED THAT liquidator will make e-auction for sale of property as per provisions of IBC without going for sale as going concern".

G. The Applicant submits that Mr. Laxman Digambar Pawar, Resolution Professional to be appointed as Liquidator of the Corporate Debtor is approved at Rs.1,00,000/- (Rupees one lakh) plus applicable taxes.

H. Considering the facts and circumstances, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -

a. IA No. 1513/2020 filed by the Applicant for the Liquidation of Bhadramaruti Concast Private Limited is allowed.

b. Mr. Laxman Digambar Pawar, Resolution Professional having Registration No. IBBI/IPA-003/IP-N00015/2017-18/10104 as Liquidator to conduct liquidation process of Bhadramaruti Concast Private Limited is hereby appointed as the Liquidator in the matter as provided under Section 34(1) of the Code.

c. That the Liquidator would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.

d. 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.

e. The Liquidator appointed under section 34(1) of the Code, will have 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.

f. 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.

g. 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.

h. 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.

i. This liquidation order u/s 33(7) 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. With the above directions, the IA No. 1513/2020 filed u/s33(1) by the applicant is hereby **Allowed** and **Disposed of**.

Sd/-	Sd/-
KISHORE VEMULAPALLI	**RAJESH SHARMA**
Member (Judicial)	**Member (Technical)**

SVR