

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2

IA/219(AHM)2021 in CP(IB) 106 of 2019

Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF THE NATIONAL COMPANY
LAW TRIBUNAL ON 20.04.2021

Name of the Company: Kailash Shah Liquidator of Sakhiya Fashions Pvt Ltd

Section 54 of the Insolvency and Bankruptcy Code, 2016.

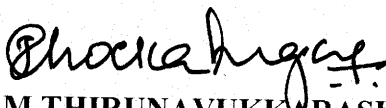
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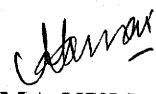
ORDER
(through video conferencing)

Mr. Vinodkumar Shah, PCS appeared on behalf of Applicant.

The order is pronounced in the open court vide separate sheet.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 20th day of April, 2021


MANORAMA KUMARI
MEMBER JUDICIAL

**BEFORE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court -2**

IA 219 of 2021 in
C.P. (IB) No.106/9/NCLT/AHM/2019

In the matter of:

Mr. Kailash T. Shah
Liquidator of
H. Sakhiya Fashions Private Limited
Having registered office at
505, 21st Century Business Centre
Near World Trade Centre
Ring Road
Surat 395 002

.... Applicant

Order delivered on 20th April, 2021.

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)
and
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T).**

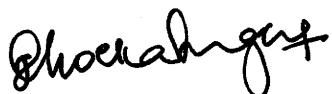
Appearance:


Mr. Vinodkumar Shah, PCS, for the applicant.

ORDER

[Per se: Mr. Chockalingam Thirunavukkarasu, Member (T)]

1. The present application, i.e. IA 219 of 2021 in CP (IB) 106 of 2019, is filed by Mr. Kailash T Shah, Liquidator of M/s. H. Sakhiya Fashions Private Limited (Corporate Debtor), under Section 54 of the Insolvency and Bankruptcy Code, 2016 (I&B Code), with following prayers:
 - i) To allow the present application; and
 - ii) To pass an order of dissolution of Corporate Debtor in accordance with Section 54 of Insolvency and Bankruptcy Code, 2016.





2. Brief facts of the case, as mentioned in the application, are as follows:-

2.1 The main Company Petition bearing CP (IB) No.106/NCLT/AHM/2019 filed by one Operational Creditor, namely, B.G. Textile, under Section 9 of the I&B Code read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, was admitted by this Adjudicating Authority, vide order dated 17.10.2019 and appointed Saaurabh Jhaveri as Interim Resolution Professional of the Corporate Debtor. Subsequently, the IRP was appointed as RP of the Corporate Debtor by the CoC.

2.2 It is stated that there was no scope for revival of the corporate debtor company, considering the situation of the company and further there was no asset and income of the company, the CoC, in its third meeting dated 23.01.2020 passed resolution to liquidate the Corporate Debtor company and directed the RP to file an application, before this Adjudicating Authority, for liquidation of the Corporate Debtor company.

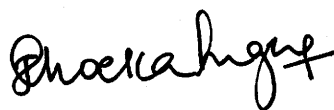
2.3 The RP, namely, Saaurabh Jhaveri, had filed an application bearing IA 145 of 2020 under Section 33(1), 33(2) and 33(3) of the IB Code, for liquidation of the corporate debtor. Subsequently, the Adjudicating

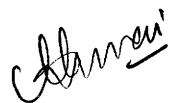
Saaurabh Jhaveri

Adjudicator

Authority has passed an order dated 31st July 2020, appointing the applicant as Liquidator of the corporate debtor company.

- 2.4 On taking over as Liquidator, the applicant, made public announcement on 08.08.2020 in accordance with Regulation 12 of IBBI (Liquidation Process) Regulation, 2016 in Times of India (English) and Gujarat Guardian (Gujarati), inviting claims with proof from all stakeholders, financial creditors, etc. (Copy of the public announcement has been annexed with the instant application as Annexure-E.
- 2.5 Pursuant to public announcement, applicant has received claim of Rs.13,21,61,928.22 from a Financial Creditor, namely, TJB S Sahakari Bank Limited. However, the applicant has verified the claim in accordance with Regulation 30 of IBBI (Liquidation Process) Regulation 2016 on 08.09.2020 and constituted Stakeholders' Consultation Committee (SCC) in accordance with Regulation 31A of IBBI (Liquidation Process) Regulation 2016. Since there was no other creditor except one Financial Creditor, SCC was constituted of single member, i.e. TJSB Sahakari Bank Limited with an admitted claim of Rs. 13,21,61,928.22.





2.6 That as per Regulation 35(1) of IBBI (Liquidation Process) Regulation, 2016, Liquidator is required to take average of estimates of the value arrived under the provisions of Regulation 35 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. That, as per Regulation 35(2) of IBBI (Liquidation Process) Regulations, 2016, the Liquidator can take fresh valuation if so, required by the Liquidator. That as per the valuation taking during CIRP, Corporate Debtor was having stock of fabrics, valued by valuer at Rs.1,20,000/-. That during the liquidation, the Liquidator found that the stock was of much deteriorated condition and was in non-saleable condition. Hence, the liquidator conducted valuation once again from 2 different valuers as per Regulation 35 of IBBI (Liquidation Process) Regulations, 2016. That, as per the valuation reports, the value of stock comes to NIL. Hence, SCC decided to proceed for the Dissolution of the Corporate Debtor company.

2.7 That, on 19.10.2020, the liquidator filed a Preliminary Report as required under Regulation 13 of IBBI (Liquidation Process) Regulation, 2016 and Asset Memorandum pursuant to Regulation 34 of IBBI (Liquidation Process) Regulation, 2016.

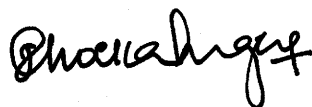
2.8 That, the liquidator has also prepared and submitted the Progress Reports on quarterly basis as required under

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Regulation 15 of IBBI (Liquidator Process) Regulation, 2016.

- 2.9 That since there was no asset available with the liquidator, the cost of CIRP as well as liquidation was born by the sole member of the SCC by way of interim finance and no amount is paid to the sole Financial Creditor based on its claim.
- 2.10 The liquidator filed the instant application for dissolution of the corporate debtor in accordance with Section 54 of Insolvency and Bankruptcy Code, 2016, along with Final Report and Form-H.
- 2.11 That the Liquidator has prepared Receipt and Payment Account of the Corporate Debtor from the date of commencement of liquidation, i.e. 31.07.2020 till 26.02.2021 and the same is audited.
- 2.12 That the liquidation cost is borne by the sole financial creditor and received by the liquidator.
- 2.13 That there is no amount of unclaimed dividend or undistributed proceeds with the liquidator. Hence, no amount is required to be transferred to Corporate Liquidation Account.





- 2.14 That the entire proceeds of liquidation are completed within a statutory time period.
- 2.15 That, none of the stakeholders have raised by objection against dissolution of Corporate Debtor during the meeting of SCC.
- 2.16 That the liquidator has not filed any other application concerning the subject matter of this application before any other Court including the Hon'ble Supreme Court.
3. The applicant has annexed following documents along with the instant application:-
- i) Copy of Minutes of 1st and 3rd CoC meeting dated 18.11.2019 (Annexure-B) and 23.01.2020 (Annexure-C).
 - ii) Copy of order (liquidation) dated 31.07.2020, passed by this Adjudicating Authority (Annexure-D).
 - iii) Copy of public Announcement dated 08.08.2020 (Annexure-E)
 - iv) Copy of list of Stakeholders (Annexure-F)
 - v) Copy of Preliminary Report (Annexure-G)
 - vi) Copy of Asset Memorandum at page no.40-41
 - vii) Copy of Progress Reports (Annexure: H)
1st Progress Report dated 19.10.2020
2nd Progress Report dated 26.02.2021
 - viii) Copy of Final Report dated 26.02.2021 and
and Form H dated 04.03.2021 (Annexure-I)
 - ix) Copy of Audited Receipt & Payment Account (Annexure-K)





4. Heard the learned PCS appearing on behalf of the applicant also gone through the records.

5. The instant application is filed under Section 54 of the I&B Code. The relevant provisions of Section 54 of the IB Code reads as under:-

Section 54 of the Code

- 1 *Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.*
- 2 *The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.*
- 3 *A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.*


6. In view of the facts and circumstances provided by the Liquidator in IA 219 of 2021 filed in CP (IB) No.106/9/NCLT/AHM/2019 and in exercise of the powers conferred under Section 54(2) of the I&B Code, this Adjudicating Authority hereby orders the dissolution of the corporate debtor, viz., M/s. H. Sakhiya Fashions Private Limited. Thus, the corporate debtor shall stand Dissolved from the date of this order i.e. 20.04.2021


7. Consequently, the Liquidator, namely, Mr. Kailash T Shah is discharged from his duties and responsibilities as the liquidator of the Corporate Debtor company.

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8. The Registry is directed to communicate a copy of this order to Registry of Companies (RoC) with which the Corporate Debtor is registered as well as to the Insolvency and Bankruptcy Board of India, New Delhi as well as to the Liquidator.
9. The Liquidator is directed to send a copy of this order within seven (7) days, from the date of receipt of certified copy of this order, to the Registry of Companies (RoC) with which the Corporate Debtor is registered, IBBI and other Statutory Authorities for necessary information.
10. Accordingly, IA 219 of 2021 filed in CP (IB) No.106/2019 stands allowed and disposed of and the main petition is also disposed of.
11. No order as to costs.


Chockalingam Thirunavukkarasu
Adjudicating Authority &
Member (Technical)


Manorama Kumari
Adjudicating Authority &
Member (Judicial)

Sudha