

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

110. IA(LIQ.)/35/2024 IA/1725/2024 IN C.P. (IB)/580(MB)2020

IN THE MATTER OF

Ahmednagar Merchants Co-op. Bank Ltd

VS

Kohinoor Ginning and Pressing Pvt Ltd

Section 7 of the Insolvency & Bankruptcy Code, 2016

Order Delivered on 02.05.2024

CORAM:

MS. REETA KOHLI
MEMBER (J)

MS. MADHU SINHA
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Liquidator: Adv. Amir Arsiwala (PH)
RP in person: Manoj Kumar Mishra (PH)

ORDER

I.A.(LIQ.)/35/2024

1. The present application has been filed by the Resolution Professional of M/s Kohinoor Ginning and Pressing Private Limited which was admitted to CIRP on 02/11/2023. It is stated that CoC has arrived at the decision that there is no scope of revival or resolution of corporate debtor. The entire exercise of CIRP if carried out would be further diminishing the value of the assets and incurring unnecessary expense. Thus, the corporate debtor was desirous of early/direct liquidation of corporate debtor without taking any steps towards resolution. Therefore, in the first meeting of CoC itself, it was decided to defer the other agendas including the publication of Form 'G'.

2. Subsequently, on 01.03.2024, one of the financial creditors i.e. Ahmednagar Merchants Co-operative Bank Limited having 66 % of voting share

sent a mail to the applicant/liquidator about the unviability of project and requested for immediately holding a meeting of CoC so as to discuss the prospect of direct liquidation of corporate debtor without publishing Form 'G' inviting prospective resolution applicants etc. etc. The said proposal was placed in the second CoC meeting held on 18.03.2024. when the same was put up for discussion as agenda item no 15. It was discussed during the proceedings that since the corporate debtor's operations have remained shut down since the last 7 years, therefore there is no chance of the resolution of the corporate debtor. It was unanimously decided that the only option available was going for 'liquidation' in order to save time which would be otherwise taken up in CIRP process which is expected not to yield any results. Thus, the entire exercise would be an effort in futility incurring huge costs. The said item was when put to vote was approved by both the creditors with 100 % voting. The manual voting sheets were received from both the financial creditors i.e. Ahmednagar Merchants Co-operative Bank Limited and Nagar Urban Co-operative Bank Limited approving the resolution of going in for quick liquidation. The same is placed on record.

3. Thus, keeping in view the above stated facts and circumstances and also appreciating the fact that corporate debtor has not been in operation since last more than seven years and the CoC in its commercial wisdom has considered it appropriate to put the corporate debtor to liquidation, we deem it appropriate to allow the present application. Vide order dated 27.03.2024 the present Resolution Professional of Kohinoor Ginning and Pressing Private Limited, Mr. Manoj Kumar Mishra has given his written consent on to act as liquidator in the present case. We are conscious of the communication dated 18.07.2023 having been sent by IBBI suggesting that resolution professionals in those stipulated instances may not be allowed to continue as a liquidator. We deem it appropriate to state on record that in the present facts and circumstances of the case we find no reason why the RP of the Kohinoor Ginning and Pressing Private Limited be not allowed

to continue as liquidator. In view of the fact that he has already given his consent and so has the CoC given their consent to allow him to continue as Liquidator. Thus, Mr. Manoj Kumar Mishra is directed to act as a Resolution Professional of Kohinoor Ginning and Pressing Private Limited.

4. In view of the above, the present **Liq. IA 35/2024** is **allowed** and corporate debtor is put to liquidation in terms of section 33(2) of IBC 2016.

I.A. 1725/2024

The present I.A. is filed under Section 19(2) for seeking co-operation from the Suspended Directors. The Ld. Counsel for the RP very fairly submits, Respondent No. 1, stated to be Suspended Director w/o late Shantilal Luniya being not well-educated is unable to provide the requisite information. In view of the same, the RP does not wish to press the present application at this stage. Hence, the **I.A. is disposed of** as such by granting liberty to file appropriate application, if required.

Sd/-
MADHU SINHA
Member (Technical)

Sd/-
REETA KOHLI
Member (Judicial)