

52

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

PRESENT: HON'BLE SHRI K ANANTHA PADMNABHA SWAMY- MEMBER JUDICIAL

PRESENT; HON'BLE SHRI BINOD KUMAR SINHA -MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 23.08.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA NO. 460/2019 in CP(IB) NO. 326/7/HDB/2018
NAME OF THE COMPANY	Khaitan Electricals Ltd
NAME OF THE PETITIONER(S)	Bank Of India
NAME OF THE RESPONDENT(S)	Khaitan Electricals Ltd
UNDER SECTION	7 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

G.S. Jagannath. Advocate for IRP, RP sumicprojects@gmail.com. 8247253245 G.S. Jagannath

ORDER

Order pronounced in open court. IA disposed of vide separate order.


MEMBER TECHNICAL


MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

I.A. NO. 460/2019

IN

CP. (IB) NO. 326/7/HDB/2018

In the matter of: KHAITAN ELECTRICALS LIMITED

Khaitan Electricals Limited
A-13, Co-Operative Industrial Estate,
Balanagar, Hyderabad – 500 037,
Telangana.
(Rep. by Mr.Kamalesh Kumar Singhania, RP).

...Applicant

Order pronounced on: 23.08.2019

**Coram: Shri. K. ANANTHA PADMANABHA SWAMY, MEMBER JUDICIAL
Dr. BINOD KUMAR SINHA, MEMBER TECHNICAL**

Parties/Counsel Present:

For the Applicant:

Mr.Kamalesh Kumar Singhania, RP

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER JUDICIAL

ORDER

1. The Present Application bearing IA No. 460/2019 is filed under Section 33 of I&B Code, 2016 by the RP of the present Corporate Debtor seeking the following prayers;
 - a.) Issue necessary orders/directions for liquidation of the Corporate Debtor as no Resolution Plan has been received by the RP.
 - b.) Issue necessary orders/directions appointing the Resolution Professional herein as the Liquidator in the instant matter.
 - c.) Issue directions on the liquidator in terms of section 35(1) of the Insolvency and Bankruptcy Code, 2016 so that the liquidator shall have the powers and duties listed out under section 35(1) of Insolvency and Bankruptcy Code.
 - d.) Issue orders/directions for payment of CIRP cost to the RP.
2. Brief facts of the present Application are as under:
3. That the CIRP was initiated against the present Corporate debtor herein i.e., Khaitan Electricals Limited vide order dated 28.11.2018 and the Applicant herein was appointed as the IRP.
4. In the 2nd CoC meeting dated 24.01.2019 the CoC approved IRP to continue as RP, and IRP was confirmed as RP vide order of Adjudicating Authority dated 13.02.2019.
5. That the RP has published Form G, inviting EOI, twice but no resolution plan was received by the RP.
6. That in the 5th CoC meeting dated 30.04.2019, since no resolution plan was received, the CoC with 79.78% of votes, resolved to recommend the Corporate Debtor to liquidate and appoint Mr. Kamalesh Kumar Singhania, RP to act as Liquidator.



7. It is further stated that the period of 180 days of CIRP has expired on 27.05.2019, and that no resolution plan was received by the CoC, the Counsel for the Applicant prayed to allow the Application.
8. Heard and perused the records.
9. In view of the facts and circumstances recorded by RP in IA No.460 of 2019 filed in CP(IB) No. 326/7/HDB/2018, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30. Therefore, in exercise of powers conferred under Sub-Clauses (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, we proceed to pass Order as follows:—
 - (i) This Adjudicating Authority hereby order for Liquidation of M/s. Khaitan Electricals Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
 - (ii) This Adjudicating Authority hereby appoint Mr. Kamallesh Kumar Singhania, who has given his consent letter dated 30.04.2019, to act as Liquidator in the present case who shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;
 - (iii) The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;
 - (iv) Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
 - (v) We make it clear that para (iv) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

- (vi) 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.
- (vii) All the 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 in the Company Liquidator viz., Mr. Kamallesh Kumar Singhania. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (viii) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- (ix) The Company Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in such a proportion to the value of the Liquidation estate assets as specified by the Board under Regulation 4(3) of IBBI (Liquidation Process) Regulations, 2016. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation estate.
- (x) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. Kamallesh Kumar Singhania for information and compliance.
- (xi) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.
- (xii) In terms of the above, IA No. 460 of 2019 filed in CP(IB) No. 326/7/HDB/2018 by the RP under Section 33(2) of the I&B Code,

2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Khaitan Electricals Limited, stands **disposed off**.


23/8/19
Dr. BINOD KUMAR SINHA
MEMBER (TECHNICAL)


K. ANANTHA PADMANABHASWAMY
MEMBER (JUDICIAL)