

SL. No.1

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 06.11.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/(Liq)/20/2024 in Company Petition IB/98/10/2023
NAME OF THE COMPANY	Mithra Yarns Pvt Ltd
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	10 of IBC

ORDER

IA(IBC)(Liq)/20/2024

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed and disposed of.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II**

**IA No.20 of 2024
in
CP(IB) No. 98/10/HDB/2023**

[Under Section 10 of the Insolvency & Bankruptcy Code, 2016]

**In the matter of
M/s. Mithra Yarns Private Limited**

Between:

Azra Banu,

Resolution Professional for

M/s Mithra Yarns Private Limited

IBBI/IPA/001/IP-P00955/2017-2018/11576

.... Applicant/Resolution Professional

In the matter of:

Mithra Yarns Private Limited,

19-8, P.No. 41/A, Chandulabowli, Sikh Village,

Tirumalghiri, Manovikas Nagar,

Secunderabad, Telangana 500 009.

.... Corporate Debtor

Date of Order: 06.11.2024

Coram:

SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER JUDICIAL

SHRI. SANJAY PURI, HON'BLE MEMBER TECHNICAL

Counsels/Parties Present:

For the Petitioners

: Mr. Narasimha Murthy Gollamudi, Counsel for
the Resolution Professional.

Ms. Azra Banu, Resolution Professional

[PER: BENCH]

ORDER

- 1) This Application is filed by the Resolution Professional of M/s Mithra Yarns Private Limited (Corporate Debtor) under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (IBC Code) seeking to liquidate the Corporate Debtor, M/s Mithra Yarns Private Limited under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016;
- 2) This Tribunal vide Order dated 12.04.2024 in CP No. CP(IB) No.98/10/HDB/2023 appointed the Applicant Ms. Azra Banu as Interim Resolution Professional.
- 3) On 15.02.2024 the CoC conducted its meeting and resolved to continue the IRP as the Resolution Professional (RP) for the Corporate Debtor.
- 4) In accordance with the provisions of Section 25(2)(h) of the Code, an advertisement inviting expressions of interest ('EoI') was published on 13.03.2024 by the Resolution Professional for submission of resolution plans for the Corporate Debtor and the last date ended for EoI was 28.03.2024.
- 5) On 25.04.2024, the Resolution Professional issued Request for Resolution Process (RFRP) and Information Memorandum (IM).

- 6) One EoI was received from Mr. Sandeep Kumar Karampuri, the Suspended Director, but no Resolution Plan was received from him till the last date.
- 7) The CoC decided to issue Form G twice on different dates seeking EoIs from interested resolution applicants. Though the same suspended director submitted EoI once again in response to the 3rd issue of Form G, no resolution plan was received from him.
- 8) It is submitted that as no plans are received even after extension of CIRP period by 90 days. On expiry of 160 days, the RP placed before the CoC in its 9th meeting, resolutions for liquidation of the Corporate Debtor.
- 9) It is submitted by the Applicant that the CoC member advised the RP to put the resolutions for e-voting. Hence, the RP kept the resolutions for e-voting on e-voting platform with polling timelines commencing from 27.09.2024 till 13.10.2024. However, the lone CoC member sought time up to 14.10.2024 for completion of voting. RP filed an IA seeking extension of CIRP period by 7 more days i.e., from 08.10.2024 to 15.10.2024. This IA was listed on 14.10.2024 and same was approved by this Authority extending the CIRP period till 15.10.2024.
- 10) The lone CoC member by way of an email communicated approval of the Resolutions Nos. 1 to 3 which included the Resolution for initiation of the

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Liquidation of the Corporate Debtor. Thus, submitting, Resolution Professional prayed the Adjudicating Authority to pass a liquidation order.

- 11) We have heard the Learned Counsel for the Resolution Professional and perused the records.
- 12) As seen from the records, the resolution plan submitted by one of the Prospective Resolution Applicants was rejected by the CoC.
- 13) In terms of Section 33 (1) (b) if the resolution plan is rejected, the Tribunal shall pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in Chapter-III. Therefore, this petition for liquidation of Corporate Debtor is liable to be allowed.
- 14) We are fully conscious of the fact that the primary objective of IBC is resolution and liquidation is the last resort. At the same time, keeping the timelines prescribed under the IBC is paramount, less asset value gets deteriorated. Therefore, taking into consideration the provisions of law as well as the documents on record, this Adjudicating Authority is of the view that since the efforts to get resolution plans for the Corporate Debtor have failed, the only option left, under the circumstances being early liquidation process, we allow this petition, directing the liquidation of the Corporate Debtor.
- 16) Before we part with, we would like to refer to the ruling of Hon'ble Supreme Court in Innoventive Industries Limited Vs ICICI Bank & Anr

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in Civil Appeal No. 8337-8338 of 2017, wherein it has been held as follows:-

“From the viewpoint of creditors, good realization can generally be obtained if the firm is sold as a going concern. Hence, when delays induce liquidation, there is value destruction. Further, even in liquidation, the realization is lower when there are delays. Hence delays cause value destructions. Thus, achieving a high recovery rate is primary about identifying and combating the sources of delay”

- 17) We therefore expect that the Liquidator appointed by this Authority would sincerely endeavour to sell the Corporate Debtor as a going concern without delay however, by observing the relevant provisions contained in IBC as well as in IBBI (Liquidation Process) Regulations and thus ensure that one of the objects of the IBC viz. maximization of the assets of the Corporate Debtor is not diluted.

ORDER

- 18) The Application is accordingly allowed with the following directions:
- a. Liquidation of **M/s. Mithra Yarns Private Limited**, shall be conducted in the manner as laid down in Chapter III of Part II of the IBC, 2016.
 - b. **Ms. Azra Banu** with registration no. IBBI/IPA-001/IP-P00955/2017-2018/11576, email: emailtolak@gmail.com, phone number :9848448727 has been proposed to be appointed as Liquidator, whose AFA is valid upto 19.11.2024. Therefore, instead of Ms. Azra Banu, **Mr. Murali Mohan Chevuturi** with registration No. IBBI/IPA-003/000307/2020-2021/13464, email: mohan.chevuturi@gmail.com,

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phone number: 8978849588 is appointed as Liquidator, as per the IBBI website, his AFA is valid upto 30.06.2025. He has to file his consent in Form-2 before this Tribunal. He shall issue a public announcement stating therein that the Corporate Applicant is in Liquidation.

- c. The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate hereafter.
- d. Subject to Section 52 of the IBC 2016, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- e. All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- f. The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- g. Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.

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- h. The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- i. 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.
- j. Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Telangana, the Registered Office of the Corporate Debtor; and the Liquidator.
- k. With the above directions, this Application is allowed and stands disposed of.

Sd/-
(Sanjay Puri)
Member (Technical)

Sd/-
(Rajeev Bhardwaj)
Member (Judicial)

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