NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

23. I.A. 2200/2021 I.A. 1424/2021 IN C.P.(IB)-625(MB)/2019

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **08.06.2022**

NAME OF THE PARTIES: Clariant Services India Private Limited

V/s

Italtinto Equipment Private Limited

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Nevil Chopra, counsel appearing for the RP along with Resolution Professional Mr. Bhaskar Shetty, counsel appearing for the Corporate Debtor are present through virtual hearing.

I.A. 2200/2021

Heard the counsel appearing for the RP the above Interlocutory Application bearing No. 2200/2021 is allowed detailed order would follow:

I.A. 1424/2021

The RP also mentioned that there is an application bearing No. 1424/2021 which has been filed under section 19(2). Keeping in view that the liquidation order has already been passed by this bench and there is no assets in the company. Therefore, the RP did not press this application No. 1424/2021 filed under section 19 (2) regarding non-cooperation by the ex-promoter and director of the company. Accordingly, the above I.A. 1424/2021 is **disposed of.**

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V.SUBBA RAO
Member (Judicial)

SKS

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

I.A. 2200 OF 2021

IN

CP (IB) – 625/IBC/MB/2019

Under Section 33(1)(a) of the Insolvency & Bankruptcy Code, 2016

Filed by

Mr. Bhaskar Gopal Shetty

Resolution Professional for:

Italtinto Equipments Private Limited

...Applicant

In the matter of

Clariant Services India Private Limited

53C, Vandana Nagar, Indore – 452001, Madhya Pradesh

...Operational Creditor

Versus

Italtinto Equipments Private Limited

Janaki, Plot No. 27, Vidhya Nagar, Pune – 411032, Maharashtra

...Corporate Debtor

Order delivered on: 08.06.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Mr. Nevil Chopra, Advocate a/w Mr. Bhaskar Gopal Shetty, Resolution Professional

1. The above application I.A. No. 2200/2021 is filed by Resolution Professional, Mr. Bhaskar Gopal Shetty (hereinafter referred to as the "Applicant") seeking liquidation of Italtinto Equipments Private Limited (hereinafter referred to as the "Corporate Debtor") under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

    a. *To pass an order of liquidation of the Corporate Debtor in accordance with Section 33(1)(a) of the IBC; and*
    b. *To pass any such order as this Hon'ble Tribunal may deem fit.*

2. The brief facts of the application are as follows:

    A. The Applicant mentions that this Tribunal vide its order dated 09.02.2021 in Company Petition No. 625/MB/2019 admitted the petition under Section 9 of the Code, filed by Clariant Services India Private Limited (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
    B. It is further stated by the IRP that on 20.02.2021 a public announcement was made inviting claims from the Creditors of the Corporate Debtor in Free Press Journal (English) and Navshakti (Marathi).
    C. On 19.03.2021, the first meeting of the Committee of Creditors (hereinafter referred to as the "CoC") took place. On

15.04.2021, in the 2nd CoC Meeting the Applicant was unanimously appointed as the RP by the CoC.

D. The Applicant further states that in the 5th CoC meeting dated 24.08.2021 the member unanimously decided to opt for Liquidation of the Corporate Debtor as well as appointing the Applicant as the Liquidator of the Corporate Debtor. The relevant extract of the resolution is reproduced herein below for ready reference:-

*"**Resolved that** the Committee of Creditors, hereby approves the Initiation of Liquidation Process as per Section 33(1)(a). Also resolved that the Resolution Professional, Shri Bhaskar Gopal Shetty, shall continue as LIQUIDATOR and he shall be paid the lumpsum fees of Rs. 1,00,000/- (Rupees One Lakh Only) as per Regulation 4(1) of the Liquidation Process Regulations, 2016. Balance CIRP Costs and Liquidation Cost shall be paid only out of the Liquidation Estate of the Corporate Debtor."*

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 5th CoC meeting that the CoC unanimously decided to liquidate the Corporate Debtor. The CoC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore allows the above Interlocutory Application Number 2200 of 2021 and passed the following:

ORDER

1. The above I.A. No. 2200/2021 is allowed and the Corporate Debtor Italtinto Equipments Private Limited is ordered to be liquidated.

a. **Mr. Bhaskar Gopal Shetty**, having Registration No. IBBI/IPA-001/IP-P01285/2018-19/12003, having office at: C-77, Shanti Shopping Centre, Mira Road (East), Mumbai – 401107, Maharashtra is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees of Rs. 1,00,000/- (Rupees One Lakh Only) as per the Regulation 4(1) of the Liquidation Process Regulations, 2016. Balance of CIRP Costs and Liquidation Cost shall be paid only out of the Liquidation Estate of the Corporate Debtor.
c. 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.
d. The Liquidator appointed under section 34(1) of the Code. 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.
e. 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.
f. 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.

g. 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.

h. This liquidation order 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, this application i.e. I.A. No. 2200 of 2021 is hereby allowed and disposed of.

Sd/-

Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)