

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

IA 381 of 2018 of CP(IB) 208 of 2017

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 01.09.2020

Name of the Company:

Anshuman Chaturvedi RP of
Winsome Diamonds & Jewellery Ltd
V/s
Winsome Diamonds & Jewellery Ltd

Section:

33(1),33(2),34(4) of IBC

ORDER

Learned Counsel for the Applicant appeared.

Learned counsel for the Respondent appeared.

The case is fixed for pronouncement of order. The order is pronounced in open court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Dated this the 1st day of September, 2020

PC

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

I.A. No. 381 of 2018

IN

C.P. (I.B.) No.208/9/NCLT/AHM/2017

Through

Mr. Anshuman Chaturvedi
Resolution Professional of,
M/s Winsome Diamonds and Jewellery Limited,
A-404, Express Zone, Off Western Express Highway,
Goregoan (East), Mumbai - 400063

...Applicant/ RP

In the matter between:

Ramesh T. Mehta (HUF)
Through its Karta
Shri Ramesh T. Mehta
202, Ranjit Chambers,
Marwadi Mohollo,
Nanpura, Surat

.....Petitioner/ Operational Creditor

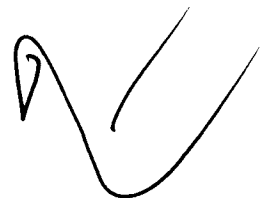
Versus

M/s Winsome Diamonds and Jewellery Limited,
Registered office at,
Kesharva Market-2,
Gotalawadi, Katargam,
Surat-395004, Gujrat

.....Respondent/ Corporate Debtor

Order delivered on September 01, 2020.

**Coram: Hon'ble Mr. Madan B. Gosavi, Member (Judicial)
Hon'ble Mr. Virendra Kumar Gupta, Member
(Technical)**



Appearance:

Ld. Counsel for the liquidator appeared.
Ld. Counsel for the COC appeared.
Ld. Counsel for the suspended Board of Management
Appeared

(THROUGH VIDEO CONFERENCING)

[Per: Mr. Madan B.Gosavi, Member (Judicial)]

1. The instant application is filed by the Resolution Professional of Corporate Debtor namely Mr. Anshuman Chaturvedi under section 33 (1) & (2) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IB Code**") for the liquidation of the Corporate debtor due to non receipt of resolution plan. The Committee of Creditors (hereinafter referred to as "**COC**") has passed the resolution for liquidation of the corporate debtor in 4th meeting dated 07.08.2018 in compliance of section 33 sub section 2 of IB Code and further prayed to appoint Mr. Amit Gupta bearing registration No. IBBI/IPA-001/IPP00016/2016-17/10040 as a liquidator under section 34 (4) of IB Code.
2. The Insolvency petition was filed by the Mr. Ramesh T. Mehta (HUF), under section 9 of IB Code against the Corporate Debtor vide CP(IB) NO. 208 of 2017 and same was admitted by this Authority vide order dated 13.02.2018 Mr. Sunit Jagdishchandra Shah was appointed as an IRP

for the corporate debtor. Thereafter, Mr. Anshuman Chaturvedi was replaced as the Resolution professional as per application of COC vide order dated 30.05.2018 passed by this Authority in IA No. 156/2018.

3. It is evident from the record that committee of creditor was formed by the applicant IRP in compliances of section 21 of IB Code read with Rule 6 & 8 of The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as "**CIRP Regulation**"). RP published the Expression of Interest in "Business Slandered" English Newspaper, "Navshakti" Marathi Newspaper Mumbai and Divya Bhaskar, Gujrati Surat, Ahmedabad) on 23.06.2018 and prescribed the time for submission of Resolution plan till 23.07.2018, but, no resolution plan was received till the last date of submission of resolution plan. Thereafter, in 4th COC meeting held on 07.08.2018 the COC passed the resolution recommending the Authority to pass only of liquidation.
4. We perused the application & heard the RP. The applicant RP filed form "H" in compliance to order dated 11.08.2020

passed by this Tribunal wherein liquidation cost to the tune of Rs. 18,00,000/- which have been approved by COC meeting dated 17.08.2020.

5. The applicant RP filed rejoinder on 31.12.2018 and submitted that suspended management raised the objection against liquidation on three grounds (i) Corporate Debtor is a going concern, (ii) IA for liquidation has been filed prior to completion of 270 days and (iii) further, alleged that no efforts were made by COC and RP for enforcement of 13 decree in favour of Corporate Debtor amounting to 870 million USD (aprox. Rs. 8880/- Crores) against the admitted claim of Rs. 8,296/- crores, and RP /applicant further clarified these three allegations/ objections of the suspended management. In response to the first allegation the RP submitted that the Business of Corporate Debtor was not in operation as on date of commencement of the CIRP i.e. 13.02.2018 even upto the appointment of resolution professional i.e.30.05.2018. In support of his contentions financial statements of the year 2016-17 has also attached. In regards to second objection, the RP submitted that this present application has been filed for the liquidation after following all the due procedure for revival of the Company/ Corporate Debtor. In regards to

third objection, the RP submitted that the COC had discussed this matter at length. After detailed discussion the COC felt that the liquidator could also pursue the said decrees and this may not prejudicially effect any right of recovery or any proceedings even after liquidation order.

6. The applicant/ RP further submitted that the intimation of initiation of liquidation of Corporate Debtor has already been sent to the Central Bureau of Investigation, Directorate of Enforcement and DRT-II Ahmedabad vide letter dated 06.09.2018.
7. We perused the record. We heard the counsels for the COC, and RP.
8. It is found that no resolution plan was received for the corporate debtor till last date of submission of resolution plan i.e. 23.07.2018, in the 4th COC meeting dated 07.08.2018 (i.e. 175 days of CIRP period) decided to liquidate the corporate debtor in compliances to section 33 (2) and we also found that corporate debtor is not a going concern.

9. It is also found that appeal is already pending before the Hon'ble Bombay High Court under the Prevention of Money Laundering Act, against the Corporate Debtor and its Managing director. In our opinion, the matter pending against the Corporate Debtor and their managing director under the prevention of money laundering Act will not be effected in any manner from the order of liquidation and as far as concerned to the execution of order passed by the foreign courts in favour of corporate debtor the same can be pursued by the liquidator after order of liquidation.
10. Sub-Section (2) of Section 33 of the I.B. Code mandates that if, CoC, during the CIRP takes decision by 66% votes or more to liquidate the Corporate Debtor, the Adjudicating Authority shall pass order of liquidation of the Corporate Debtor.
11. In this case, the RP and CoC did not receive any Resolution Plan. The CoC, by 84.02% votes decided to liquidate the Corporate Debtor. The Liquidator has also been consented for his appointment as Liquidator. We pass the following order:

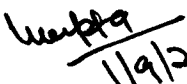
ORDER

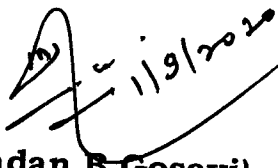
1. We hereby pass the order of liquidation of the Corporate M/s Winsome Diamonds and Jewellery Limited and consequently allow IA No. 381 of 2018. The liquidation of the Corporate Debtor is effective from the date of this order.
2. The Moratorium declared vide order dated 13.02.2018 on CP(IB) No.208/9/NCLT/AHM/2017, henceforth, ceases to exist.
3. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, Mr. Amit Gupta (Registration No. IBBI/IPA-001/IPP00016/2016-17/10040 is hereby appointed as a Liquidator of the company, M/s Winsome Diamonds and Jewellery Limited, having CIN No. L36910GJ1985PLC015915 who shall complete the liquidation process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. He is further directed to endeavour to sale the Corporate Debtor firstly as a going concern as per the resolution passed by COC.
4. All the powers of the Board of Directors, key managerial person(s), the partners of the Corporate Debtor hereafter

cease to exist. All these powers henceforth, vest with the Liquidator.

5. 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, further, the Liquidator shall also provide all co-operation to various Government agency (s)/ authority(s) in ongoing investigations/ inquiry or inquiries initiated hereafter.
6. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
7. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

8. This liquidation order shall be deemed to be 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.
9. Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional and Liquidator by Speed-post within one week from this order.
10. Accordingly, the present I.A. No. 381 of 2018 stands disposed of.


11/9/2020
(Virendra Kumar Gupta)
Adjudicating Authority &
Member (Technical)


11/9/2020
(Madan B. Gosavi)
Adjudicating Authority &
Member (Judicial)

RB

