

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

IA 476 of 2020 in CP(IB) 458 of 2018

Coram: Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
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 06.11.2020

Name of the Company: Pradeep Kabra RP of Eagle Cotton Pvt Ltd
V/s
Bharatbhai Manubhai Trapasiya & Anr

Section: 33(1),33(2),34(1) & 60(5) IBC,2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court, vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Dated this the 6th day of November, 2020

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

**I.A. No. 476 of 2020
IN
C.P. (I.B.) No. 458/7/NCLT/AHM/2018**

In the matter of:

[An application filed under Section 33(1), 33(2) and 34(1) and 60(5) of Insolvency and Bankruptcy Code, 2016 for initiation of liquidation proceeding].

Through:

Mr. Pradeep Kabra,
Resolution Professional of
M/s. Eagle Cotton Private Limited
M-19-20-21, Metro Tower, Ring Road,
Surat-395002.

..... Applicant/ RP

In the matter of:

Bank of India

Registered Head Office at:
Bandra-Kurla Complex, Star House,
C-5, G Block, Bandra (E),
Mumbai-400051.

Bank of India,
Rajkot Zonal Office, Para Bazaar
Rajkot-360001

....Financial Creditor

Versus

M/s. Eagle Cotton Private Limited

Registered office at:
Office No. 13, Sarathi Complex
Opp. Diamond Market
Liliya Road, Amreli-365601

....Corporate Debtor

Order Reserved on 02/11/2020
Order Delivered on 06/11/2020

Coram: Madan Bhalachandra Gosavi, Member (J)
Virendra Kumar Gupta, Member (T)

Appearance:

Learned Counsel Mr. Kuldeep K Adesara, for the RP.
Learned Counsel Mr. Ketan M Parikh, for the COC.

[Per: Bench]

1. The present Interlocutory Application is filed by resolution professional for seeking the order of liquidation of Corporate Debtor under Section 33(1), 33(2) and 34(1) and 60(5) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred "**IBC**", **2016**) and further prayed for exclusion of the period of 68 days of lockdown i.e. from 25.03.2020 to 31.05.2020 from this Adjudicating Authority.
2. The Corporate Debtor (M/s. Eagle Cotton Pvt. Ltd.) was admitted into Corporate Insolvency Resolution Process (in short "**CIRP**") vide order dated 19.07.2019 in the application filed by the Financial Creditor (Bank of India) under Section 7 of the IBC, 2016 and Mr. Chandra Prakash Jain was appointed as Interim Resolution Professional (in short "**IRP**"). IRP made Public Announcement in

Form-A on 17.08.2019 and constituted the COC wherein "Bank of India" is a sole member of COC with 100% voting right. In the first COC meeting dated 13.09.2019, IRP Mr. Chandra Prakash Jain was appointed as a Resolution Profession (in short "**RP**").

3. On the instructions of COC, former RP had published Expression of Interest (hereinafter "**EOI**") on 08.11.2019 in two newspapers "**Business Standard**" English newspaper and "**Sandesh**" Gujarati newspaper and informed to the COC in 4th meeting dated 30.11.2019 that no plan has been received, hence, suggested to liquidate the Corporate Debtor.
4. In the Fifth Meeting of COC held on 09.12.2019 wherein COC decided to re-publish the EOI with revised eligibility criteria and it was also resolved to replace the former RP Mr. Chandra Prakash Jain with Applicant/RP Mr. Pradeep Kabra, however, due to non confirmation of the name of Applicant/RP from this Adjudicating Authority, former RP had performed the CIRP till 7th COC meeting i.e. 06.02.2020. Former RP had published the EOI on 13.01.2020 in two newspapers "**Business Standard**" English newspaper and "**Sandesh**" Gujarati newspaper. This authority had confirmed the appointment of new RP Mr. Pradeep Kabra/ applicant having

Registration No. **IBBI/IPA-001/IP-P01104/2017-18/11790**) vide order dated 12.02.2020 in IA 96 of 2020.

5. In the 7th meeting of COC held on 06.02.2020, it was resolved to file an application for extension of CIRP process by 90 days beyond 180 days, thereafter, RP/ applicant filed an application bearing IA No. 176 of 2020 which was allowed by Adjudicating Authority on 03.03.2020. In the 8th meeting, the COC resolved to again publish EOI, thereafter, applicant/ RP had published the EOI in two newspapers "**Times of India**" English Newspaper and "**Divya Bhaskar**" Gujarati Newspaper on 27.03.2020 and last date of submission of plan was 08.05.2020, but, no plan was received till last date of submission of resolution plan. It was also discussed in the 10th COC meeting dated 03.07.2020.
6. In the 11th meeting of COC held on 18.07.2020, it was resolved to liquidate the Corporate Debtor and further decided to appoint RP. Mr. Pradeep Kabra as a Liquidator of the Corporate Debtor and fee of Liquidator was also finalised for to the tune of Rs. 42,500/- per month, this minimum fee will be deducted from the fee payable as per Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. The consent letter of RP to act as a Liquidator has also been obtained.

7. It is submitted by the learned counsel of the RP that including the extension and exclusion of lockdown period, the CIRP was to be completed on 16.09.2020, hence, the present application is within limitation for filing the liquidation application as described in section 33 (1) of IBC 2016.
8. The applicant submitted Form H on 14.09.2020 as per Regulation 39B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person), Regulation 2016 (hereinafter referred to as "**CIRP Regulations**") and also filed an affidavit dated 30.09.2020 along with letter dated 23.07.2020 of Bank of India which is the sole member of COC to authenticate the details given in form H. As per letter dated 23.07.2020 the liquidation cost was estimated to the tune of Rs. 20,00,000/- as per Regulation 39B of CIRP Regulations and it also addresses the issue of sale the Corporate Debtor as a going concern as per Regulation 39 C of CIRP Regulations.
9. We perused the record. We heard the Ld. PCS for the RP.
10. We have come to the conclusion that, the COC has made multiple efforts to revive the Corporate Debtor which is the object of IBC, 2016 and even thrice the EOI was published at the instruction of

COC but no Resolution Plan was received. Hence, COC, by 100% vote decided to liquidate the Corporate Debtor.

11. 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 which has been done in the present case. Accordingly, we pass the following order:

ORDER

1. We hereby pass the order of liquidation of the Corporate M/s Eagle Cotton Private Limited and allow IA No. 476 of 2020. The liquidation of the Corporate Debtor is effective from the date of this order.
2. The Moratorium declared vide order dated 19.07.2019 in CP(IB)No.458/7/NCLT/AHM/2018, henceforth cease to exist.
3. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, Mr. Pradeep Kabra (Registration No. **No. IBBI/IPA-001/IP-P01104/2017-18/11790**), e-mail-pradeepkabraca@gmail.com is hereby appointed as a Liquidator of the company, M/s Eagle Cotton Private Limited, having CIN No. U17121GJ2012PLC068665 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) Regulations, 2016. He is further directed to endeavour to sale the Corporate Debtor firstly as a going concern as per the resolution passed by COC.

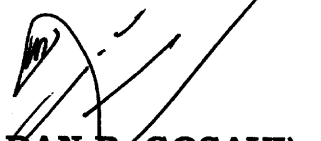
4. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
5. The personnel of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
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 cum Liquidator by Speed-post within one week from this order.
10. Accordingly, the present I.A. No. 476 of 2020 in CP (IB) 458/7/NCLT/AHM/2018 stands disposed of.



(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)



(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Sen/RB