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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI**

MA/854/2019 in CP/1211/IB/2018
filed under Section 33(1)(a), 33(2) &
34(1) of the Insolvency and Bankruptcy
Code, 2016

In the matter of M/s. Gold King Tex India Private Limited

Mr. Mahalingam Suresh Kumar,
Resolution Professional

... Applicant

Order delivered on 3rd of September, 2019

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Resolution Professional : Mr. A.G.Sathyanarayana, Counsel

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. This relates to MA/854/2019 filed in CP/1211/IB/2018 that has been filed by Mr. Mahalingam Suresh Kumar (hereinafter referred to as 'Resolution Professional') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

2. The prayers made by the Applicant in the Application are as follows:

a) Pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in Section 33(1)(a) of Chapter III of I&B Code, 2016.

b) Appoint the Resolution Professional Mr. Mahalingam Suresh Kumar as Liquidator of the Corporate Debtor.

c) Pass such further or other orders as may deem fit and proper in the facts and circumstances of the case and thus render justice.

3. Originally MA/854/2019 filed in CP/1211/IB/2018 filed under Section 9 of the I&B Code, 2016 by the Operational Creditor viz., M/s. GHCL Limited, against the Corporate Debtor viz., M/s. Gold King Tex India Private Limited, was admitted by this Authority vide Order dated 25.01.2019, the CIR Process was initiated against the Corporate Debtor and one Mr. C. Ramasubramaniam was appointed as Interim Resolution Professional (IRP).

4. It is averred that pursuant to the Order of this Authority dated 25.01.2019 the IRP had taken over the management of the Corporate Debtor and had issued the Newspaper Publication dated 28.01.2019 in two edition one in English and another in vernacular as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors. After verification of the claims received, the IRP constituted the Committee of Creditors (CoC).

5. In the 1st CoC Meeting held on 22.02.2019, the CoC has recommended for appointment of Valuers to take valuation of the company properties. In the 2nd CoC Meeting held on 18.03.2019, the CoC has appointed the Applicant viz., Mr. Mahalingam Suresh Kumar as Resolution Professional replacing the Interim Resolution Professional.



6. It is stated that the Resolution Professional had invited for 'Expression of Interest' ('EoI') as per Section 25(2)(b) of the I&B Code, 2016 vide publication dated 14.05.2019 for submission of the Resolution Plans from the prospective Resolution Applicants by mentioning the last date for submitting the Resolution Plan as 02.06.2019. It is further stated that the Resolution Professional as such has not received any Resolution Plan from the prospective Resolution Applicants.

7. It is further stated that the Corporate Debtor is not carrying on any business for the last 2 years. The Company is not fetching any income. There was no Resolution Plan from prospect Resolution Applicants. The time period of 180 days of CIR Process was expired on 27.07.2019

8. In the 4th CoC Meeting held on 29.07.2019, the Resolution Professional has placed the final valuation report received from the Valuers before the CoC for deliberations. The CoC, considering the current state of affairs of the

Corporate Debtor has decided to liquidate the Corporate Debtor with 100% voting share. The Resolution passed by the CoC is as follows:

“RESOLVED TO Liquidate the Corporate Debtor and appoint the present RP as the Liquidator to conduct the Liquidation Process of the Corporate Debtor.

RESOLVED FURTHER THAT the fees payable to the Liquidator shall be as defined in Regulation 4(2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

FURTHER RESOLVED THAT the CoC hereby directs RP to file application before Adjudicating Authority for liquidation of the Corporate Debtor immediately.

9. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the I&B Code, 2016, before the expiry of the Corporate Insolvency Resolution Process period of 180 days, the Corporate Debtor has to be ordered for Liquidation.

ORDER

10. In view of the facts and circumstances recorded by Resolution Professional in MA/854/2019 filed in CP/1211/IB/2018 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-

- I. This Authority hereby orders for liquidation of the Corporate Debtor viz., M/s. Gold King Tex India Private 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 Authority hereby appoints Mr. Mahalingam Suresh Kumar as Company Liquidator as has been proposed by the CoC, 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. This Authority makes 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 with the Company Liquidator viz., Mr. Mahalingam Suresh Kumar. 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 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 fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- X. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. Mahalingam Suresh Kumar, for information and compliance.

11. In terms of the above, MA/854/2019 filed in CP/1211/IB/2018 by the Resolution Professional under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Gold King Tex India Private Limited is **allowed**.

12. ⁴The Order is pronounced in the open Court.

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ANIL KUMAR B
MEMBER (TECHNICAL)

P.ATHISTAMANI

-SD-
CH. MOHD. SHARIEF TARIQ
MEMBER (JUDICIAL)