

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 1**

ITEM No 164

IA/271(AHM)2021 in CP(IB) 261 of 2018

**Order under Section 33 & 34 IBC**

**IN THE MATTER OF:**

Abhishek Nagori RP of Sunlight Extrusion Pvt Ltd.

.....Applicant

V/s.

Sunlight Extrusion Pvt Ltd & Ors

.....Respondent

**Order delivered on ..12/07/2021**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

**PRESENTS:**

For the Applicant :

For the IRP/RP :

For the Respondent :

**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)

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

**I.A. No. 271 of 2021  
IN  
CP(IB) No. 261/7/NCLT/AHM/2018**

**In the matter of:**

[An Application is filed under Section 33(1), 33(2) & 34(1) of the Insolvency & Bankruptcy Code, 2016]

**Through:**

**Mr. Abhishek Nagori**

Resolution Professional for

M/s. Sunlight Extrusion Private Limited

Reg. No. IBBI/IPA-001/IP-P00020/2016-17/10044

330/348, Third Floor, Tower-A, Atlantis K-10,

Opp. Vadodara Central, Sarabhai Main Road,

Vadodara-390023, Gujarat

**....Applicant/RP**

**Versus**

**1. M/s. Sunlight Extrusion Private Limited**

Having Registered Office at:

501(1), 502(1), 513, 514,

GIDC Estate, Waghodia,

Vadodara-391760

**....Proforma Respondent**

**2. Central Bank of India**

(Financial Creditor-Member of the Committee of Creditors)

Having Registered Office at:

Nizampura Branch, Lakulesh Avenue,

1<sup>st</sup> Floor, Delux Char Rasta,

Nizampura, Vadodara-390002

**3. Mr. Kamlesh Bhavarlal Jain**

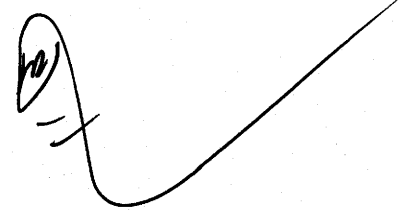
(Member of the Suspended Board of Directors)

Having address at:

11, Satya Nagar Society,

Aerodramme Road, Karelibaug,

Vadodara-390022, Gujarat, India.



**4. Mr. Rakesh Bhavarlal Jain**

(Member of the Suspended Board of Directors)

Having address at:

11, Satyanagar Society,  
Opp. Mira Society, Harni Road,  
Vadodara-390018, Gujarat, India

**5. Mr. Yeshwant Bhavarlal Jain**

(Member of the Suspended Board of Directors)

Having address at:

Kanbai Bhuvan, Flat No. 18,  
1<sup>st</sup> Khattargali Lane, Near C. P. Tank Circle,  
Girgaon, Mumbai-400004,  
Maharashtra, India.

....Respondents

**Order Reserved on: 6<sup>th</sup> July, 2021**  
**Order Pronounced on: 12<sup>th</sup> July, 2021**

**Coram: MADAN B GOSAVI, MEMBER (J)**  
**VIRENDRA KUMAR GUPTA, MEMBER (T)**

**Appearance:**

Learned Counsel Mr. Nipun Singhvi along with Learned Counsel Mr. Vishal J Dave appeared for the Applicant/RP.

**ORDER**

**[Per Virendra Kumar Gupta, Member (T)]**

1. The present Interlocutory Application is filed by the Resolution Professional under Section 33(1), 33(2) & 34(1) of the Insolvency & Bankruptcy Code, 2016 for initiation of Liquidation Process of **M/s Sunlight Extrusion Private Limited** the Corporate Debtor.

2. The facts, in brief, are that:

- I. This Adjudicating Authority admitted Corporate Debtor into Corporate Insolvency Resolution Process vide its order dated **25<sup>th</sup> February, 2020** in **CP(IB) No. 261/7/NCLT/AHM/2018** and appointed **Mr. Abhishek Nagori** as "IRP".
- II. The IRP made the Public announcement in terms of Section 15 of the Insolvency & Bankruptcy Code, 2016 and invited claims from all creditors in prescribed Form 'A', which was published in the newspapers viz. **'Business Standard (English)'** and **'Divya Bhaskar (Gujarati)'** on 19<sup>th</sup> March, 2020. Last date for submission of claims was 31<sup>st</sup> March, 2020.
- III. RP in compliance with Regulation 13(2)(d) of Insolvency and Bankruptcy Board of India ('IBBI') Regulations, 2016 filed the list of the Creditors and report for constitution of committee of creditors with Hon'ble National Company Law Tribunal ('NCLT'), Ahmedabad. The list of the claims received by IRP till 09.06.2020 is given below:

**FINANCIAL CREDITORS:**

S. No.	Name of Financial Creditor	Amount claimed by Creditor	Amount Admitted by RP	Voting Share (%)
1.	Central Bank of India	22,07,16,141.00/-	22,07,16,141.00/-	100

**OPERATIONAL CREDITORS:**

<b>S. No.</b>	<b>Name of Operational Creditor</b>	<b>Amount claimed by Creditor</b>	<b>Amount Admitted by RP</b>
1.	Ram Ratan Wires Limited	2,12,86,665.00/-	2,12,86,665.00/-
2.	Madhya Gujarat Vij Company Limited	6,69,625.00/-	6,69,625.00/-

**STATUTORY DUES:**

<b>S. No.</b>	<b>Name of Operational Creditor</b>	<b>Amount claimed by Creditor</b>	<b>Amount Admitted by RP</b>
1.	Deputy Commissioner of Customs, EPCG Monitoring Cell, JNCH, Nhava Sheva	1,22,50,901.00/-	1,22,50,901.00/-

- IV. The first meeting of CoC was held on 16.06.2020, wherein it was decided to appoint Mr. Abhishek Nagori, Insolvency Professional as RP with the consent of 100% of present member. The second meeting of CoC was held on 21.07.2020. Thereafter, Resolution Professional has publish Expression of Interest in Form-'G' on 24.07.2020. In third meeting of CoC was held on 20.08.2020, during the course of meeting it was discussed that since last date for submission of Resolution Plans by the prospective resolution applicants is 24.09.2020 and 180 days of CIRP was to be expired on 23.08.2020, hence, further extension of 90 days to complete CIRP of

Corporate Debtor is required. Applicant filed an application on 21.08.2020 bearing IA No. 602 of 2020 for extension of CIRP for further 90 days beyond 180 days and also sought exclusion of 130 days. This Adjudicating Authority had allowed the said application and excluded the 130 days as well extended period of 90 days vide order dated 21.09.2020. The fourth meeting of CoC was held on 29.10.2020, RP informed CoC that out of two eligible Resolution Applicants, only one Resolution Applicant ('RA') M/s Ramdev Metal Industries submitted its Resolution Plan.

- V. The sixth meeting of CoC held on 19.12.2020. RP further informed CoC members that on 18.12.2020, RP has received a letter from M/s Ramdev Metal Industries i.e. Resolution Applicant that they are withdrawing the Resolution Plan. The CoC members requested RP to take necessary step as per the terms and conditions of Expression of Interest and requested for Resolution Plan. Applicants submitted once again EOI was published on 21.12.2020 in Form-G in **"Economic Times"** (in English Language), All Gujarat edition, in the **"Free Press Journal"** (in English Language), Mumbai edition and in **"Sandesh"** (in Gujarat Language), wherein last date for submission of Resolution Plan was 05.01.2021. The seventh meeting of CoC was held on 28.01.2020 and RP informed that pursuant to

publication of Form-G, RP has received three Expression of Interest till 05.01.2021.

- VI. The eighth meeting of CoC was held on 22.02.2021. RP further apprised that out of three prospective resolution applicants, only one resolution applicant namely, M/s Khandwala Finstock Private Limited submitted its resolution plan. The tenth meeting of CoC was held on 19.03.2021, and Resolution Plan received from M/s. Khandwala Finstock Private Limited, Resolution Applicant, is put for voting on 26.03.2021, wherein, the resolution plan of M/s. Khandwala Finstock Private Limited was rejected by CoC with 100% voting rights. Since, no viable resolution plan was received, COC in its tenth meeting resolved to initiate liquidation process of the Corporate Debtor with 100% voting share authorizing RP to file application under Section 33 of Insolvency and Bankruptcy Code. The applicant further submitted that only in aforesaid meeting the CoC has passed the Resolution to sell the Corporate Debtor as a going concern and also assess the liquidation cost to the tune of Rs. 24,43,000.00/- as envisaged as under Rule 39B and 39C, respectively. It is also submitted that the cost of liquidation shall be paid by the liquidator in case of shortfall to meet out the liquidation cost.

3. Heard learned counsel of the applicant and gone through the record it appears that multiple times EOI has been

published but no such valid plan was received. The only plan which was submitted by the Resolution Applicant namely, M/s Khandwala Finstock Private Limited was rejected by the CoC with 100% voting in meeting dated 19.03.2021. It clearly proves that RP as well as CoC made their best efforts to resolve the Corporate Debtor but resolution could not be happen. Hence, the only option available to the CoC is to liquidate the Corporate Debtor. The resolution required in terms of provisions of Regulation 39B, 39C & 39D of CIRP Regulations, 2016 r.w. Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 have been considered by COC. Hence, COC resolved to sell the Corporate Debtor as a going concern. It is our considered view that after multiple attempt no proper resolution plan was received as per the provisions of Insolvency and Bankruptcy Code, so that Corporate Debtor can be revived. Hence, liquidation is the only way to complete the CIRP and thus we pass following order:

### **ORDER**

1. As per the Section 34(1) of the I.B. Code, the Applicant/Resolution professional, **Mr. Abhishek Nagori (Registration No. IBBI/IPA-001/IP-P00020/2016-17/10044** residing at 330/348, Third Floor, Tower-A, Atlantis K-10, Opp. Vadodara Central, Sarabhai Main Road, Vadodara-390023, Gujarat, is hereby appointed as a '**Liquidator**' of the Company **M/s. Sunlight Extrusion Private Limited** which has

been duly approved by CoC in its 10<sup>th</sup> meeting dated 19<sup>th</sup> March, 2021.

2. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.
3. 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.
4. 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.
5. That once having liquidation process is 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.
6. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall

provide complete information to facilitate the process of Liquidation.

7. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.
8. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.
9. 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.
10. The Moratorium declared vide order dated 25.02.2020 in C.P. (I.B.) No.261/7/NCLT/AHM/2018, henceforth, ceases to exist.
11. The present **I.A/271(AHM) 2021** is allowed directing the appointed Liquidator to initiate and complete liquidation process as envisaged under Chapter – III of the Code by following the liquidation process as

specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

12. The 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 Operational Creditor, Corporate Debtor, Registrar of the Companies, Resolution Professional cum Liquidator by Speed-post within one week from this order.
13. Accordingly, the present **I.A. No. 271(AHM) 2021 is allowed and stands disposed of.**



**(VIRENDRA KUMAR GUPTA)**  
**MEMBER (T)**



**(MADAN B GOSAVI)**  
**MEMBER (J)**

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