



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD  
COURT II**

**IA NO./545/NCLT/AHM/2021**

**IN**

**CP (IB) NO./174/NCLT /AHM/2020**

[Under section 33(2) read with 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the NCLT Rules]

**IN THE MATTER OF:**

MR. KAMAL KISHOR GURNANI  
(RESOLUTION PROFESSIONAL OF VIBRANT FAB PVT.LTD.)

....APPLICANT/ RESOLUTION PROFESSIONAL

**IN THE MATTER OF:**

DRIP CAPITAL INC .....APPLICANT/FINANCIAL CREDITOR

VERSUS

VIBRANT FAB PVT.LTD. ....RESPONDENT/CORPORATE DEBTOR

**Order Pronounced on: 30.05.2022**

**Coram:**

**DR. DEEPTI MUKESH, MEMBER (JUDICIAL)  
AJAI DAS MEHROTRA, MEMBER (TECHNICAL)**

**Appearance:**

For the Applicant/RP : Ms. Prajakta Menezes, Advocate



## **ORDER**

1. The present application filed by the Applicant being the Resolution Professional (hereinafter referred to as “RP”) under Section 33(2) and 60(5) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”) for passing an order of liquidation of the Corporate Debtor, M/s. VIBRANT FAB PVT. LTD. and appointment of a liquidator of the Corporate Debtor.
2. The facts as narrated in the application and explained by the counsel for the RP are summarized hereunder :
  - (i) The Financial Creditor, M/s. DRIP CAPITAL INC. had filed an application under Section 7 of the Code for initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as the ‘CIRP’), against the Corporate Debtor, M/s. Vibrant Fab Pvt. Ltd., which was admitted vide order dated 31.12.2020 and Mr. Krishna Gopal Ratanlal Maheswariwas appointed as Interim Resolution Professional (hereinafter referred to as “IRP”).
  - (ii) The IRP under Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, made a public announcement in FORM-A on 08.12.2021. The last date for submission of a claim by the creditors was 19<sup>th</sup> January 2021.
  - (iii) The IRP had provisionally admitted the claims of the creditors pursuant to Public Announcement and accordingly constituted a Committee of Creditors (hereinafter referred to as the “COC”) and submitted the first list of creditors in terms of Regulation 13(2) (d) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 along with a report certifying the Constitution of COC on 28.01.2021. The COC comprised of two Financial Creditors i.e. Bank of India with 85.01% voting share and M/s. Drip Capital INC with a 14.99 % voting share. Thereafter, the



1st COC meeting was held on 04.02.2021 wherein the IRP informed the members of COC about continuous non-cooperation from the Suspended Board of Directors of the Corporate Debtor and in the same CoC meeting, the IRP proposed himself to be appointed as RP.

- (iv) In the 2<sup>nd</sup> COC meeting held on 11.02.2021, wherein the resolution was passed by the COC for the replacement of IRP and to appoint Mr. Kamal Kishor Gurnani as RP, and the same was approved by this Authority vide order dated 23.03.2021.
- (v) IRP had filed an application under section 19(2) of the Code against the Suspended Directors and Statutory Auditors of the Corporate Debtor.
- (vi) In the 4<sup>th</sup> CoC meeting held on 04.05.2021, the COC had passed a resolution for the appointment of Registered Valuers and Transaction Auditor.
- (vii) In the 5<sup>th</sup> CoC meeting held on 04.06.2021, the CoC had passed a resolution for publication of Form G for inviting EOI from the Proposed Resolution Applicants and accordingly the RP published the EOI on 09.06.2021 in two newspapers namely Sushila Times (English Daily) and Gujarat Mitra (Gujarat Daily) of Gujarat Edition and Free Press Journal (English Daily) and Navakal (Marathi Daily) of Mumbai Edition for Resolution of the Corporate Debtor. The last date for submission of the EOI was 24.06.2021.
- (viii) The revised report certifying the Constitution of COC was submitted by RP on 28.06.2021 before this Authority. In the 6<sup>th</sup> COC meeting held on 29.06.2021, the RP also informed the members about receiving three (3) Interest from Prospective Resolution Applicants pursuant to the publication of Form G. However, no EOI was received from any Prospective Resolution



Applicant till the last date for submission of EOI. In view of that, there were no business operations, nor any interested parties as no EOI have been received, hence the COC passed the resolution with 100% voting share for liquidation of the corporate debtor and instructed the RP to file an application under section 33 of the Code for liquidation of the Corporate Debtor. The same CoC meeting also approved the RP to be appointed as liquidator.

3. For the sake of ready reference, the relevant provision of section 33 (2) of the Code, which is applicable is reproduced hereunder:

*(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than 66% of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of Clause (b) of sub-Section (1).*

*[ Explanation: for the purposes of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of Section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum].*

4. Considering the documents and submission made, since the COC in its commercial wisdom has decided to take the Corporate Debtor in liquidation, we are of opinion that the decision of the COC should not be interfered with. The present application seeking liquidation of the Corporate Debtor M/s Vibrant Fab Private Limited, in the manner laid down in Chapter III of Part II of the Code is allowed.
5. We appoint RP Mr. Kamal KishorGurnani, who has also consented to act as a Liquidator and filed his written consent in Form AA, having registration no. IBBI/IPA-001/IP/P-01463/2018-19/12338, having an address at 702, Janki Centre, Dattaji Salvi Marg, Off Veera Desai Road, Andheri (West), Mumbai – 400053, as liquidator in terms of Section 34(1) of the Code with the following directions:



- a) The liquidator to issue a Public Announcement stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
  - b) The liquidator to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
  - c) The liquidator to follow up and continue to investigate the financial affairs of the corporate debtor to determine any undervalued and preferential transactions, etc.
  - d) This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.
  - e) The Liquidator to submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
6. As a consequence of the application being allowed, the moratorium as envisaged under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.
7. A copy of the order shall be communicated to the applicant RP and the corporate debtor as well as to the liquidator above named. The liquidator is to be informed of his said appointment by the Registry. In addition, a copy of said order shall also be forwarded to IBBI for its records and ROC for updating the Master Data. ROC shall send a compliance report to the Registrar, NCLT.

**S/d-**  
**Ajai Das Mehrotra**  
**Member (Technical)**

**S/d-**  
**Dr. Deepti Mukesh**  
**Member (Judicial)**

Rahul/LRA