

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

**IA No.247/ALD/2020
in
CP (IB) No.394/ALD/2018**

In the matter of:

An application under section 33(1) of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Bank Of India

... *Financial Creditor*

Versus

Amitech Textiles Limited

... *Corporate Debtor*

And

In the matter of:

Mr. Aditya Agarwal

(RP of Amitech Textiles Limited)

... ***Applicant***

Coram:

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Virendra Kumar Gupta

: Member (Technical)

Appearances (through video conference):

For Applicant

:

Mr. Shubham Agarwal, Advocate

For Suspended Board

: :

Mr. D.N. Awasthi, Advocate

Date of hearing: 08.03.2022

Date of pronouncement of order: 16.03.2022

ORDER

Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conferencing.
2. This is an application filed by the Interim Resolution Professional ('IRP') upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, *viz Amitech Textiles Ltd.* [CIN: U17115UP1992PLC014385], on the ground that no resolution plan was received. The Applicant has sought for the following reliefs:

—Sd—

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- a. *Pass an order under section 33(1) of the Insolvency & Bankruptcy Code, 2016 for liquidation of the Corporate Debtor i.e., Arm Winsys Tech Pvt. Ltd Private Limited.*
 - b. *Pass an order for appointment of applicant as liquidator in respect of the Corporate Debtor.*
3. This Adjudicating Authority, *vide* its order dated 03.10.2019 on a Petition filed by Bank of India (*'Financial Creditor'*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*), directed initiation of the Corporate Insolvency Resolution Process (*'CIRP'*) against the Corporate Debtor and appointed Mr. Aditya Agarwal as the Interim Resolution Professional (*'IRP'*), who was later confirmed as RP.
 4. The Applicant submits that the corporate debtor is in continuous default of statutory filings of financial statements and has failed to furnish any of the documents. Thus, the CoC was constituted based on verified claims and in absence of financial statements, only one claim was verified by the applicant and information memorandum was also not completed in absence of necessary documents and it is further stated that the ex-management was also not cooperating with the applicant.
 5. On 03.03.2020, in the 4th meeting of the CoC, the sole member of COC were informed about the financial status of the corporate debtor which shows that the company has incurred losses, in view of the financials and losses, it was resolved that as there are no possible ways for revival of corporate debtor. Therefore, the CoC with 100% voting share recommended for liquidation of the Corporate Debtor and to appoint Mr. Shravan Kumar Vishnoi as liquidator as the applicant wishes to recuse himself to be appointed as liquidator. .
 6. Hence, the RP has filed the present application under section 33(1) of the Code, before this Adjudicating Authority for liquidation of the Corporate

—Sd—

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Debtor and for appointment of liquidator. The proposed liquidator has also given his consent to act as liquidator.

7. A reply has been filed on behalf of the suspended board opposing the liquidation application stating that the valuation done by RP was arbitrary as there was no basis for reducing the valuation.
8. The present was heard and reserved for orders on 01.11.2022 but then put for clarification on 16.11.2021 with regard to the valuation of the assets by the RP to which supplementary affidavit was filed on behalf of applicant giving the details of valuation of assets determined by the appointed valuers registered with IBBI
9. Heard the Learned counsel appearing for the parties and is satisfied with the valuation done, thus we do not find merit in the objection raised by the Counsel for the suspended management.
10. This Bench, therefore, hereby orders as follows: -
 - a. The prayers as sought for in I.A.No. 247/2021 filed by Mr. Aditya Agarwal RP of Amitech Textiles Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. Mr Shравan Kumar Vishnoi [Reg No IBBI/IPA-002/IP-N00040/2016-17/10079]; Email: shravan.vishnoi@yahoo.com; Address: BCC Tower, 1008,10th Floor, Arjun ganj ,Near Saheed Path ,Lucknow,Uttar Pradesh ,226002; whose name has been proposed by CoC is hereby appointed as liquidator as provided under section 34(1) of the Code, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019, subject to his possessing a valid Authorisation.

—Sd—

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- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in liquidation.
 - e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
 - f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
 - h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a 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.
 - i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Uttar Pradesh, Kanpur, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, Uttar Pradesh, Kanpur.
11. The application bearing **IA No. 247/2020** shall stand disposed of in accordance with the above directions.

—Sd—

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12. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
13. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
14. List the main **CP (IB) No. 394/ALD/2018** for reporting progress on **04.05.2022**.

—Sd—

Virendra Kumar Gupta
Member (Technical)

—Sd—

Rajasekhar V.K.
Member (Judicial)

Swati Gupta (LRA)