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The Counsel for the Applicant submits that the CoC resolved as below:

“Resolved further that in accordance with Section 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Committee of Creditors, in consultation with the Resolution Professional, has made the best estimate of an amount that may be required to meet the liquidation costs, to run the liquidation process, in the event of an order for liquidation is passed by the Adjudicating Authority under Section 33 of the Insolvency and Bankruptcy Code, 2016.”

Based on the above resolution, the Applicant has filed this Application seeking liquidation of the Corporate Debtor. On 24.02.2020, this Bench has directed the Applicant/RP to approach the CoC for passing an appropriate resolution for liquidation of the Corporate Debtor and accordingly, the Applicant submits that the CoC in its meeting held on 02.03.2020, passed the following resolution with 100% voting share, for liquidation of the Corporate Debtor:

“Resolved further that pursuant to the directions of the Hon’ble NCLT, Mumbai and pursuant to Section 33, subsection (2) and Section 34 of Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, the Committee of Creditors hereby decides that Valecha LM Toll Pvt Ltd (Corporate Debtor) under Corporate Insolvency Resolution Process be liquidated.”

The Applicant filed an additional Affidavit dated 07.03.2020, enclosing the above resolution passed by the CoC in the meeting held on 02.03.2020

On hearing the Counsel for the Applicant and on going through the resolution passed by the CoC, this Bench is satisfied that the Corporate debtor has to be liquidated in terms of the provisions of Section 33 of the IBC, 2016. Mr.Udayraj Patwardhan, Resolution Professional having IBBI Registration No.IBBI/IPA-001/IP-P00024/2016-2017/10057, has given his consent to act as a Liquidator of the Corporate Debtor. In view of the fact that the CoC has not approved any resolution plan and passed a resolution for liquidation of the Corporate Debtor, the Corporate Debtor, shall be

liquidated in the manner as laid down in Chapter-III of the Code with the following consequential directions:

- a) Mr. Udayraj Patwardhan, Resolution Professional having IBBI Registration No.IBBI/IPA-001/IP-P00024/2016-2017/10057 is appointed as Liquidator.
- b) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- c) The Liquidator shall issue public announcement stating that the Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) 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.

- j) The Liquidator is directed to send a copy of this Order to concerned Registrar of Companies and Insolvency and Bankruptcy Board of India, New Delhi.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
H.P. CHATURVEDI
Member (Judicial)

Dated this the 27th day of Oct, 2020