

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II**

MA 1915/2019

IN

CP (IB) 1506/MB/C-II/2017

Under Section 33 (2) of the Insolvency and
Bankruptcy Code, 2016

In the Application of

MA 1915/2020

Preeti Vimal Agrawal

11, Krishna Kunj, Above HDFC Bank,
Bhayander (West), Thane 401101.

...Applicant/ Resolution Professional

In the matter of

Kapokh Fibres & Industries Limited

... Financial Creditor

Versus

Affloat Textiles (India) Limited

...Corporate Debtor

Order Delivered on 21.12.2021

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Nausher Kohli, Advocate.

ORDER

Per: Justice P. N. Deshmukh, Member

1. This application is filed by the Resolution Professional for Liquidation of the Corporate Debtor namely **Affloat Textiles (India) Limited**.

Facts in the Application can be briefly stated as under:

2. The Corporate Debtor was placed under CIRP vide order dated 23.09.2019, on an Application filed u/s- 7 of the IBC by **Kapokh Fibres & Industries Limited** being the Financial Creditor and Preeti Vimal Agrawal was appointed as IRP on the same day. At the first CoC meeting held on 13.03.2018, the IRP was appointed as the Resolution Professional in respect of the Corporate Debtor.

Pursuant to the preparation of the Information Memorandum, except for Kapokh Fibres & Industries Limited no other financial creditors has submitted undertaking as required under Section 29(2) of the Code.

3. Thereafter, a meeting was held on 27th June 2018 the Applicant submits that no Resolution Plan was received by the Resolution Professional for the resolution of the Corporate Debtor during CIRP period. It was deliberated and resolved that given the financial situation of the Corporate Debtor coupled with the facts the no resolution plan has been received, the Corporate Debtor ought to go in liquidation. It was therefore decided that the Resolution Professional be directed to apply to this Tribunal to liquidate the Corporate Debtor. In this regard provisions of Section 33(2) of the Code:

Section 33

(1) ...

(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 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).*

4. The Applicant has also submitted the valuation report of registered valuer CA Dr. Das Shyamsundar which states that the Liquidation Value of Assets as on 31st September 2018 is Rs.2,91,032/- (Rupees Two Lakhs Ninety One Thousand Thirty Two Only).
5. Having considered the facts stated as aforesaid and totality of the circumstances this Bench is of the view that there is no alternative but to order that the Corporate Debtor to be liquidated.
6. The RP has given her consent to act as liquidator in Form 2, the same is on record. Therefore, we hereby appoint **Preeti Vimal Agrawal**, having IBBI Registration No. IBBI/IPA-001/IP-P00655/2017-18/11144 as the Liquidator of the Corporate Debtor **Affloat Textiles (India) Limited**.
7. This order for liquidation shall deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except

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when the business of the corporate debtor is continued during the liquidation process by the liquidator.

8. The fees payable to the Liquidator shall be in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016.
9. The Liquidator shall submit progress reports as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016.
10. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
11. With the aforesaid observations Application IA No. 1915 of 2019, U/s. 33 (2) stands disposed of as Allowed. Order Accordingly.

Sd/-

Sd/-

SHYAM BABU GAUTAM
Member (Technical)
21.12.2021

JUSTICE P. N. DESHMUKH (RETD.)
Member (Judicial)

SAM