

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH MUMBAI C-II**

IA 1016 of 2020

in

CP (IB) 2889/MB/C-II/2019

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

In the Application of

Ms. Jovita Reema Mathias

...Applicant/Interim
Resolution Professional

In the matter of

Kotak Mahindra Bank Ltd

...Petitioner

Versus

Gupta Synthetics Limited

[CIN: L17110MH1984PLC091906]

...Corporate Debtor

Order Delivered on 14.07.2020

Coram:

JANAB MOHAMMED AJMAL
Hon'ble Member (Judicial)

MR. RAVIKUMAR DURAISAMY
Hon'ble Member (Technical)

Appearances:

For the Applicant : Mr. Amir Aarshiwala, Advocate.

For the Corporate Debtor : Mr Mohanmal Gupta a/w Mr
Avinashbhai Shah, Advocates.

ORDER

Per: Ravikumar Duraisamy, Member (Technical)

1. This is an Application submitted on 03.06.2020 U/s.33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") by Ms. Jovita Reema Mathias, the Interim Resolution Professional of the Gupta Synthetics Ltd (hereinafter referred to as the Corporate Debtor),

seeking an order of 'Liquidation' of the Corporate Debtor. It is submitted that the Committee of Creditors' in the second meeting held on 06.12.2019 has approved for "Liquidation" of the Corporate Debtor.

Facts of the case:

2. In this case, the Petition U/s. 433 and 434 of the Companies Act, 2013 filed by the Financial Creditor, Kotak Mahindra Bank Ltd against the Corporate Debtor in the Hon'ble High Court of Bombay was transferred to NCLT vide order dated 06.06.2019, and the same was admitted under section 7 of I&B Code vide an order dated 17.09.2019 (CP 2889/IBC/MB/2019) by NCLT. Ms. Jovita Reema Mathias, having Certificate of Registration granted by the Regulator (IBBI Registration No: IBBI/IP A-002/IP-N00337/2017-18/10941) was appointed as Interim Resolution Professional (IRP) to conduct the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor. Order was communicated to IRP on 27.09.2019.
3. According to the provisions of I&B Code and IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the Applicant made public announcement on 29.09.2019. She further invited claims and after that IRP took the possession of main factory unit located at Plot No. 28, Survey No. 259/1/1, Navnit Shah Industrial Estate, Dadra, Silvassa (U.T. of D. & N.H.). After that the Applicant convened the first meeting of the Committee of Creditors (CoC) on 25.10.2019. However, it is pertinent to note that there was a major fire in the main factory unit in January, 2018, in which factory unit along with all the machinery got severely damaged leaving almost no prospect for recovery. With regard to the same, the Company filed claims with Oriental Insurance Company Limited, the Insurer.
4. The Applicant on the instructions of IDBI Bank Ltd submitted Financial Analysis Report on 28th November, 2019 for CoC Members' review. The IRP organized factory visit on 30th November, 2019 for the Members so as to enable them to form an on the spot opinion regarding the liquidation of the Corporate Debtor.

5. The second meeting of the CoC held on 06.12.2019 wherein a resolution with majority voting of 71.54% was passed to initiate liquidation proceedings against the Corporate Debtor under section 33(1) of the I&B Code and the present Applicant was recommended as the Liquidator.

The resolution was passed to the following effect :

“Resolved that pursuant to section 33 and all other applicable provisions, if any, of the Insolvency and Bankruptcy Code, 2016 including any modification(s) and re-enactment(s) thereof for time being in the force, consent of the members be and is hereby accorded to liquidate the Corporate Debtor viz. M/s Gupta Synthetics Limited.”

“Resolved Further that pursuant to the provisions of section 33 of Insolvency and Bankruptcy Code, 2016 Regulations, 2016, Ms. Jovita Reema Mathias, the Interim Resolution Professional performing the functions of the Resolution Professional pursuant to Regulation 17(3) of the CIRP Regulations of the Corporate Debtor be and is hereby authorised to file Miscellaneous Application with the Hon’ble NCLT, Mumbai for initiation of Liquidation Process of the Corporate Debtor.”

6. To the best of the ability of Applicant, she has identified that the Corporate Debtor, as on 31st March 2017, had liabilities of Rs. 312.80 Crores out of which Rs. 173.97 Crores is owed to secured creditors. However, on the other hand, the Corporate Debtor only appears to have assets amounting to Rs. 144.10 Crores. Total liability of Corporate Debtor on account of Statutory dues is Rs. 20.46 Crores, and on account of dues owed to workmen/employee is NIL. The Applicant received claims from Financial Creditors amounting to Rs. 973.62 Crores and from Operational Creditors amounting to Rs. 6.23 Crores. The Applicant submits that in these circumstances the CoC, after exercising its commercial wisdom, found liquidation to be the best option for the Corporate Debtor.
7. The Resolution Professional Ms. Jovita Reema Mathias has given her written consent to act as ‘Liquidator’ on 09.01.2020 under Regulation 3(1A) of the IBBI (Liquidation Process) Regulations, 2016.

8. Considering above facts and circumstances, this Bench hereby Orders that:
- i. The Process of Liquidation of the Corporate Debtor 'Gupta Synthetics Ltd' shall commence as per the Chapter III of the I&B Code from date of this Order.
 - ii. Ms. Jovita Reema Mathias, having IBBI Registration No: IBBI/IP A-002/IP-N00337/2017-18/10941 is hereby appointed as a "Liquidator" as per the provisions of Sec. 34 of the I&B Code.
 - iii. The Liquidator shall advertise in two Newspapers, one in English language and one in Regional Language about the Liquidation of the Corporate Debtor as per the provisions of the I&B Code.
 - iv. Copy of this Order shall be forwarded to the Concerned Authority with which the Corporate Debtor is Registered.
9. The Liquidator is at liberty to seek any directions, if need be, from this Adjudicating Authority during the Liquidation Process.
10. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
11. Ordered Accordingly. Application for U/s. 33 (1) (a) is Allowed.

Sd/-

JANAB MOHAMMED AJMAL
Member (Judicial)
14.07.2020
SAM

Sd/-

RAVIKUMAR DURAISAMY
Member (Technical)