IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 2

IA/555(AHM)2021 in CP(IB) 132 of 2019

Order under Section 33(1),33(2), & 34(1) IBC,2016

IN THE MATTER OF:

Vikash Gupta RP of Supreme Finefab Pvt Ltd ....**Applicant**
V/s
Jugalkishor Chhaganlal Jhawar & Anr ....**Respondent**

Order delivered on ..08/10/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1

IA 562 of 2021 in CP (I.B) No.131/7/NCLT/AHM/2019

<u>In the matter of :</u>

Mr. Vikas Prakash Gupta
Resolution Professional
of M/s. Utility Agrotech Industries
Private Limited
Having address at:
G-19, Shreewardhan Complex
Mezzanine Floor
Beside Landmark Building
Ramdaspeth
Wardha Road
Nagpur-440 010 ... Applicant

Versus
Suspended Directors
of the Corporate Debtor

1. Mr. Jugar Kishore Chhaganlal Jhawar
   Shop No.120, Lower Ground Floor
   Kohinoor Textile Market
   Ring Road, Surat.

2. Saritadevi Jhawar
   Shop No.120, Lower Ground Floor
   Kohinoor Textile Market
   Ring Road, Surat. ... Respondents

<u>In the matter of</u>

Dena Bank (Now Bank of Baroda) ... Petitioner

Versus

M/s. Utility Agrotech Industries
Private Limited ... Corporate Debtor

Appearance: Mr. Kuldeep Adesara, Advocate, for the Applicant.

IA 555 of 2021 in CP (I.B) No.132/7/NCLT/AHM/2019

In the matter of :

Mr. Vikas Prakash Gupta
Resolution Professional
of M/s. Supreme Finefab Pvt. Ltd.
Having address at:
G-19, Shreewardhan Complex
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   Ring Road, Surat.

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   Shop No.120, Lower Ground Floor
   Kohinoor Textile Market
   Ring Road, Surat. ... Respondents

In the matter of

Dena Bank (Now Bank of Baroda) ... Petitioner

Versus

M/s. Supreme Finefab

Private Limited ... Corporate Debtor

Appearance: Mr. Kuldeep Adesara, Advocate, for the Applicant.

Order Reserved on : 05.10.2021
Order Pronounced on : 08.10.2021

Coram: Madan B Gosavi, Member (J)
Virendra Kumar Gupta, Member (T)

COMMON ORDER

[Per: Virendra Kumar Gupta, Member (T)]

1. By these Applications, i.e. IA 562 of 2021 in CP (IB) No.131/7/NCLT/AHM/2019 and IA 555 of 2021 in CP (IB) No.132/7/NCLT/AHM/2019, are filed by the Resolution Professional under Section 33(1), 33(2) & 34 of the Insolvency & Bankruptcy Code, 2016 seeking initiation of Liquidation process of the Corporate Guarantors, viz., M/s.Utility Agrotech Industries Private Limited and M/s. Supreme Finefab Private Limited, of the Corporate Debtor, viz., M/s. Supreme (India) Impex Limited.

2. The facts, in brief, are that the Corporate Guarantors were admitted into Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") by this Adjudicating Authority vide common

order dated 16.03.2021 in Applications filed under Section 7 of the Insolvency & Bankruptcy Code, 2016. CIRP commenced on 16.03.2021. The IRP made public announcement inviting submission of claims on 20.03.2021. Last date for submission of claims was 30.03.2021. Committee of Creditors (CoC) was formed and first meeting of CoC was held on 15.04.2021. In the said meeting, CoC with 69.08% voting share resolved to appoint Mr. Vikas Prakash Gupta (IRP) as Resolution Professional of the Corporate Guarantor. Further, in the said meeting, CoC expressed the view that timeline of 180 days of CIR process of the Corporate Guarantor would result into additional costs for the CoC and the Corporate Guarantor does not have any viable financial & tangible assets, hence, CoC in its first meeting with 69.08% voting share resolved to file Application under Section 33(1) & 33(2) of the IB Code, 2016 before this Adjudicating Authority for initiation of Liquidation process of the Corporate Guarantor of the Corporate Debtor. In the second CoC meeting held on 12.05.2021, wherein CoC with 91.98% voting share resolved to appoint the Applicant / RP as Liquidator of the Corporate Guarantor, viz., M/s. Utility Agrotech Industries Private Limited of the Corporate Debtor. The RP has also given his consent to act as Liquidator of the Corporate

Guarantor, his written consent is also annexed as Annexure-F to the application.

3. Heard the Ld. Counsel appearing for the Applicant and also we perused the material placed on record. After considering the submissions made by him and material available on record, we hold that an order of liquidation can be passed in the present case as there are insignificant financial and tangible assets in the Corporate Guarantor, hence, there is no chance of resolution of the Corporate Guarantor of the Corporate Debtor. The CoC has passed resolution in terms of provisions of Regulation 39C of CIRP Regulations as well as Regulation 32, 32A of Liquidation Process Regulations to the effect that Corporate Guarantor cannot be sold as a going concern as the Corporate Guarantor of the Corporate Debtor do not possess any viable financial and tangible assets. Resolutions regarding liquidation costs as well as contribution by Financial Creditor to meet the shortfall have also been passed. In these circumstances, we hold that order of liquidation is to be passed. The name of the RP has been proposed to act as liquidator and we approve such resolution. The present application shall be disposed of in accordance with the provisions of law after passing of order of liquidation. Accordingly, we pass the following order:

ORDER

1. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, **Mr. Vikas Prakash Gupta**, having Registration No. IBBI/IPA-001/IP-P00501/2017-18/10889 is hereby appointed as a Liquidator of the Corporate Guarantor, viz., M/s. Utility Agrotech Industries Pvt. Ltd. which has been duly approved by CoC in its second meeting dated 12.05.2021.

2. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Guarantor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.

3. The personnel of the Corporate Guarantor of the Corporate Debtor, are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Guarantor.

4. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

5. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Guarantor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate guarantor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

6. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.

7. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.

8. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Guarantor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.

9. This liquidation order shall be a deemed to be notice of discharge to the officers, employees and workmen of the Corporate Guarantor except to the extent of the business of the Corporate Guarantor continued during the liquidation process by the Liquidator.

10. The Moratorium declared vide common order dated 16.03.2021 in CP (IB) No.131/7/NCLT/AHM/2019 and CP (IB) No.132/7/NCLT/AHM/2019 henceforth, ceases to exist.

11. IA No. 562 of 2021, is allowed directing the appointed Liquidator to initiate and complete liquidation process as envisaged under Chapter – III of the Code by following the liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

12. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the Registry to the Financial Creditors, Corporate Guarantor, Registrar of the Companies, Resolution Professional cum Liquidator by Speed-post within one week from this order.

IA 555 of 2021

Since the facts of IA 562 of 2021 and proceedings taken in regard to this IA are identical. Hence, on the same analogy, the order of initiation of Liquidation process is passed in respect of this Corporate Guarantor of Corporate Debtor.

13. Accordingly, both IAs are allowed and disposed of in terms indicated above.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Sudha/sapna