

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 28.05.2020

THROUGH VIDEO CONFERENCING

CAUSE LIST

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB)No. 132/BB/2018	For hearing - IA 165/2020 - Liquidation	Sec 9 of I&B code 2016	M/s Palm Printz	KDSH & Associates LLP	M/s Pink Rose Lingerie Pvt Ltd	Shri Madhugiri Venkatarayap pa Sudarshan, Liquidator

ADVOCATE FOR PETITIONER/s: *M.V. Sudarshan, Liquidator.*

ADVOCATE FOR RESPONDENT/s: **ORDER**

Heard Shri Madhugiri Venkatarayappa Sudarshan, Liquidator,
through Video Conference.

I.A.No.165/2020 and C.P.(IB)No.132/BB/2018 are disposed of
by separate order.

MEMBER (T)

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB)No.132/BB/2018
U/s.9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

And

I.A No.165/2020
U/s. 54 of the IBC, 2016
R/w Rule 14 of the IBBI (Liquidation Process)
Regulation, 2016

Madhugiri Venkatarayappa Sudarshan

Liquidator of

M/s. Pink Rose Lingerie Private Limited

No.984/13, 8th Main,

Girinagar II Phase,

Bengaluru – 560 085

- Applicant/Liquidator

In the matter of:

M/s. Palm Printz,

No.62/4 & 63/3, Ground,

1st and 2nd Floors,

Sri Annapurneshwari Building,

Garvebhavipalya, Hosur Road,

Bangalore – 560 068.

- Petitioner/Operational Creditor

Versus

M/s. Pink Rose Lingerie Pvt. Ltd.

No.29, Machohalli Cross,

Magadi Main Road,

Bangalore – 560 091.

- Respondent/Corporate Debtor

Date of Order: 28th May, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

2. Hon'ble Shri Ashutosh Chandra, Member (Technical)


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Parties/Counsels Present (Through Vedio Conference):

Liquidator : Madhugiri Venkatarayappa Sudarshan

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.165/2020 in C.P. (IB)No.132/BB/2018 is filed Madhugiri Venkatarayappa Sudarshan, Liquidator of M/s. Pink Rose Lingerie Private Limited ('Applicant/Liquidator'), U/s. 54 of the IBC, 2016 U/r. 14 of the IBBI (Liquidation Process) Regulation, 2016, by inter alia seeking to dissolve the Corporate Debtor (M/s. Pink Rose Lingerie Private Limited) with immediate effect etc.
2. Brief facts of the case, as available on records of the case, which are relevant to the instant case, are as follows:

(1) Initially, C.P.(IB)No.132/BB/2018 was filed by M/s. Palm Printz (Petitioner/Operational Creditor) U/s. 9 of the IBC, 2016 read with Rule 6 of I&B (AAA) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Pink Rose Lingerie Private Limited (Respondent/Corporate Debtor) on the ground that it has committed default for an amount of Rs.60,65,926/-which was admitted by the Adjudicating Authority, vide Order dated 04.02.2019, by initiating CIRP in respect of the Corporate Debtor; appointing Shri Vinod Sunder Raman as IRP, imposing moratorium etc. Subsequently, the Adjudicating Authority, vide its Order dated May 28th, 2019 allowed the Application filed on behalf of the Committee of Creditors of the Corporate Debtor to change the Resolution Professional of the Corporate Debtor and thus appointed

Ms. Ramanathan Bhuvaneshwari as Resolution Professional in place of Shri Vinod Sunder Raman. The Adjudicating Authority, vide Order dated 23rd August, 2019, extended CIRP of the Corporate Debtor by further period of 90 days beyond initial period of 180 days i.e. starting from 27th August, 2019 till 24th November, 2019, upon an Application filed by RP under Section 12 of the IBC, 2016.

(2) Since no proper Resolution Plan was received by the Resolution Professional, as the value of the Company had completely eroded, and creamy assets were sold already, the Resolution Professional proposed for Liquidation of the Corporate Debtor in the meeting of CoC held on 19.11.2019 wherein it was approved with requisite majority. Based on the resolution, the Resolution Professional has made an Application to this Tribunal U/s. 33 of the IBC, 2016, for initiating Liquidation Process of the Corporate Debtor vide I.A.No.634 of 2019 in C.P.(IB)No. 132/BB/2018. Accordingly, the Adjudicating Authority vide its Order dated 04.12.2019, appointed Mr. Madhugiri Venkatarayappa Sudarshan as Liquidator of the Corporate Debtor.

(3) In pursuant to the above order, the Liquidator made a public announcement of the commencement of the Liquidation in Form B in Financial Express, English Newspaper and Varthabharathi, Kannada (Vernacular) Newspaper on 11.12.2019, seeking submission of claims by the stakeholders, if any, within 30 days from the date of commencement of Liquidation i.e. 10.01.2020. The public announcement was simultaneously sent to the IBBI to place



the same on its official website and the same was published on IBBI website on 12.12.2019.

- (4) It is stated that the Liquidator has revised the claims of the Financial and Operational claims basis on the revised claims submitted by the claimants. For those creditors, who have not submitted the revised claims, the original claims submitted to the IRP/RP have been retained without any modifications. The consolidated final list of Creditors including Financial and Operational Creditors received by the Liquidator till date is as follows:

Summary	Amount claimed	Amount of claim admitted
1. Financial Creditors	13,61,55,029	13,53,11,769
2. Ex-Employees	40,06,861	31,44,498
3. Distributors and Super Distributor	6,95,06,532	5,12,16,195
4. Statutory	3,22,58,266	3,22,58,266
5 Other Suppliers	19,66,29,129	18,43,32,064
Total Operational Creditors	30,24,00,788	27,09,51,023
Grand Total - Claims	43,85,55,817	40,62,62,792

- (5) As per the Regulation 32 & 33 of the Insolvency and Bankruptcy (Liquidation Process) Regulation, 2016, the Liquidator made a public announcement in the newspaper on 08.01.2020 for the sale of assets on public auction and the response was very poor. The Liquidator is of the opinion that the assets valued by the Valuer is not easily disposable due to following reasons:

- a. *There are plenty of machines are available in the second-hand market, but demand is very less. Moreover, these machines are very old and not in usable condition.*
- b. *These machines are specifically used by lingerie manufactures and no reputed manufacturer will buy*



these machines and there is not even one mid-size, lingerie manufacture in Bangalore, Karnataka.

- c. Raw materials & WIP are dumped in a heap in the warehouse, are to be sold in weights as waste. Liquidator must spend a lot for sorting and segregating the material to make it good for selling. He may have to pay money for the disposal of elastic, non-recyclable, non-biodegradable materials.*
- d. Some of the machines are China make, no one would like to buy them due to non-availability of spares and services.*

(6) It is further stated that the price quoted by the interested scrap merchants being very low, the liquidator is of the opinion that the realizable value of the assets may be around Rs.7,50,000/- excluding expenses to sell the assets. The liquidator may have to dispose of the assets at the earliest to avoid further reduction in the value. The present rent for the premises is Rs.23,000/- per month and same was being adjusted against the security deposit. However, from the month of February, 2020, Liquidator shall have to discharge the rental payment as agreed upon. The warehouse where the materials are dumped is around 27 Kms away from the office of the Liquidator and the cost and time associated with each visit is not giving any fruitful result.

(7) For the last two months, the liquidator has already spent Rs.1.30 Lakhs for release of PA and other expenses towards disposal of assets excluding his fee of Rs.2.36 Lakhs and the same situation continues for next two months, the total



estimated cost of liquidation would be around Rs.12,49,384/- as detailed below:

Sl. No.	Particular of expenses	Amount in Rs. (Incurred)	Till dissolution	Total
1	Public Announcement (Form B and Sale of assets)	30,984	-	30,984
2	Sending Notices to Trade receivables and others	23,600	3,000	26,600
3	Filing fee	6,800	3,600	10,400
4	Legal Fee	14,800	30,400	45,200
5	Labour Charges	24,000	15,000	39,000
6	Local Conveyance	28,400	25,000	53,400
7	Godown Rent 6*23	-	1,38,000	1,38,000
7	Liquidator's Fee for 4 months + GST	4,72,000	2,36,000	7,08,000
8	CIRP Cost	1,96,800	-	1,96,800
	Total	7,98,384	4,51,000	12,49,384

(8) It is stated that the Liquidator has brought to the notice of the members of the Consultation Committee that though there were movable assets available in the Company and those are of scrap in nature and the same has been valued by the registered valuer at Rs.8.90 Lakhs as Liquidation value. Based on the market conditions and the way in which the materials are being handled/dumped, the realizable amount may be less than the liquidation value and not enough to meet the cost of liquidation process. Also, the Consultation Committee and the only secured creditor M/s. Maximus ARC Ltd., have been communicated the decision of the Liquidator to proceed with the proposal of early dissolution, under regulation 14 of the IBBI (Liquidation Process) Regulation, 2016 so as to dissolve the Company under Section 54 of the Code.

3. Heard Shri Madhugiri Venkatarayappa Sudarshan, Liquidator,

through Video Conference. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

4. Before considering the merits of case, it is necessary to refer relevant provisions and rules, as available under the Code and the Rules made thereunder. Section 33(2) of Code reads "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 approved by not less than sixty-six percent of the voting share 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)". **Section 54 of the Code reads** "54... (1) Where the assets of the Corporate Debtor have been completely liquidated, the liquidator shall make an Application to the Adjudicating Authority for the dissolution of such Corporate Debtor. (2) The Adjudicating Authority shall on Application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly. (3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered". **Rule 14 of IBBI (Liquidation Process) Regulations, 2016 reads** as "14... **Early dissolution.** Any time after the preparation of the Preliminary Report, if it appears to the liquidator that - (a) the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process; and (b) the



affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution”.

5. In terms of Section 60 of Code, the Adjudicating Authority shall be NCLT having territorial jurisdiction over the place, where the registered office of corporate persons is located. By conjointly reading the above provisions, the ultimate objective of Code is either to resolve the issue by way of Resolution Plan or to dissolve the Corporate Debtor, as expeditiously as possible. If the facts and circumstances of a case, would not serve any purpose to keep the Corporate Debtor under further Liquidation process, the Adjudicating Authority, by exercising its inherent powers conferred under the Act, can pass appropriate order(s) in the interest of speedy justice.
6. In the light of above provisions of law, as detailed supra, the liquidator has already spent Rs.1.30 Lakhs for release of PA and other expenses towards disposal of assets. The total realizable Assets value of the Company as per the valuation done by the IBBI approved Valuers in terms of Regulation 27 is only Rs.8.90 Lakhs as Liquidation value.
7. The above facts and circumstances of the Case justified that there would be no useful purpose be served, by further continuing Liquidation process, under the extant provisions of Code. Therefore, the liquidation process under the provisions of Code is deemed to have been completed under Chapter III of Part II of Code, and thus it would be just and proper for the Adjudicating



Authority to dissolve the Company, subject to fully satisfying the CIRP cost out of sale of the movable assets of the Company, as detailed supra.

8. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54 and other connected Provisions of Code, and the Rules made thereunder, C.P. (IB)No. 132/BB/2018 and I.A.No.165/2020, are hereby disposed of with the following directions:

- (1) It is hereby dissolved the Applicant Company, **M/s. Pink Rose Lingerie Private Limited**, with immediate effect.
- (2) The Liquidator is Permitted and directed to dispose of the assets as scrap and appropriate the realized amount towards Liquidation cost as full and final settlement for handling the Liquidation process of the Corporate Debtor.
- (3) The Registry is directed to forward a copy of this Order to the Registrar of Companies, Karnataka, Bengaluru, within a period of two weeks from today;
- (4) The Resolution Professional is also directed to forward copies of this Order to all other Statutory Authorities including IBBI, connected with the affairs of the Company.
- (5) Personal liability/Guarantee of any Director/Promoter of the Corporate Company, if any, would not absolve them by virtue of this order. Aggrieved party/Parties are liberty to continue or to take appropriate legal course of action against them.
- (6) No order as to costs.


(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL