

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.5

IA/253(AHM)2023 in CP(IB) 320 of 2018

Order under Section 60(5) IBC,2016 r.w Rule 11 of NCLT,2016

IN THE MATTER OF:

Arrhum Tradelink Pvt Ltd

.....Applicant

V/s

Vineeta Maheshwari Liquidator of Kaneria Granito Ltd

.....Respondent

Order delivered on: 18/10/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN
MEMBER (JUDICIAL)**

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
BENCH AT AHMEDABAD
COURT NO. 1

IA(IB)/253(AHM)2023
in
CP(IB)/320(AHM)2018

IA(IB)/253(AHM)2023

[An application under Section 60(5)(c) of the IBC, 2016 r.w. Regulations 32(e) & 32A of the IBBI (Liquidation Process) Regulations, 2016 r.w. Rule 11 of the NCLT Rules, 2016]

Arrhum Tradelink Pvt Ltd

A company registered under the Companies Act,
Having its address at
56/A, Sthanakvasi, Jain Society,
Usmanpura, Ahmedabad

..... Applicant/Successful Bidder

Versus

Vineeta Maheshwari,

Liquidator of Kaneria Granito Ltd
Having office at
3rd Floor, Reegus Business Centre,
Above Mercedes Showroom, New City Light Road,
Bharthana, Vesu, Surat – 395 007

..... Respondent/Liquidator

In the matter of:

CP(IB)/320(AHM)2018

[An application under Section 7 of the Insolvency and Bankruptcy Code, 2016]

Bank of India Ltd

.....Applicant/Financial Creditor

Versus

Kaneria Granito Ltd

.....Respondent/Corporate Debtor

Coram: Shammi Khan, Hon'ble Member (J)
Kaushalendra Kumar Singh, Hon'ble Member (T)



Appearance:

For Applicant : Ld. Sr. Adv. Mr. Navin Pahwa

For Respondent/Liquidator : Ld. Adv. Mr. Karan Sanghani a.w.
Ms. Vineeta Maheshwari (**Liquidator-in-person**)

Order Pronounced On 18.10.2023

ORDER

1. The present application is filed by the Applicant/Successful Bidder, namely, Arrhum Tradelink Pvt Ltd under Section 60(5)(c) of the IBC, 2016 seeking certain reliefs and concessions for the Corporate Debtor, namely, Kaneria Granito Ltd which is sold in the process of liquidation as a going concern under Regulation 32(e) & (f) of the IBBI (Liquidation Process) Regulations, 2016.

2. The averments as made in the application and presented by the learned counsel for the Applicant are summarized hereunder: -

(i) The Financial Creditor i.e., Bank of India had filed an application under Section 7 of the IBC, 2016 for initiating the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor, namely, Kaneria Granito Ltd; and the same was admitted by the Adjudicating Authority *vide* order dated 26.04.2019 in CP(IB)/320(AHM)2018.

(ii) Following the initiation of the CIRP, no Resolution Plans were received and, therefore, the RP had filed an IA(IB)/715(AHM)2019 seeking liquidation order of the Corporate Debtor. Accordingly, the Adjudicating Authority had ordered the company's liquidation *vide* its order dated 15.07.2020. Following that, the Liquidator published an e-auction sale notice and in the process, the e-auction was held on 28.02.2022. The Applicant along with others participated in the said e-auction. The Applicant submitted its last bid for Option 1 i.e., the sale of the Corporate Debtor as a going concern and offered Rs 38.40 crores. In contrast, the other bidder submitted its bid for Option 2 i.e., the sale of the assets collectively and offered Rs 38.40 crore.



(iii) Being aggrieved by the action of the Liquidator in rejecting the bid of the Applicant company, the Applicant approached this Adjudicating Authority *vide* IA(IB)/238(AHM)2022; and this Adjudicating Authority *vide* order dated 20.06.2022 had allowed the application and declared the Applicant as a Successful Bidder on the condition that it would deposit the entire sale consideration of Rs 38.40 crores before the Liquidator within 7 days from the date of the order. In pursuance of that order, it has deposited the said amount with the Liquidator and finally, the sale certificate has been issued in its favour.

(iv) The Unsuccessful Bidder, namely, Torrecid India Pvt Ltd challenged the order dated 20.06.2022 before the Hon'ble NCLAT and the Hon'ble NCLAT, *vide* judgment dated 15.03.2023 in Company Appeal No. 943 of 2022, had dismissed their appeal and confirmed the order of this Adjudicating Authority.

3. The Applicant submits that it has paid the entire sale consideration to acquire the Corporate Debtor as a going concern along with all its assets including the land and building, plant and machinery, all having absolute clear title and rights with NIL liability, dues claims, obligations, whatsoever of any kind or type and submits that the purchase of the Corporate Debtor as a going concern is more or less like giving a Resolution Plan under the CIRP guidelines and in view thereof, seeks grant of certain reliefs and concessions to enable it to continue to run the Corporate Debtor as a going concern. In its application, the Applicant has also referred to certain judgments of the NCLT, Mumbai as well as of this Adjudicating Authority where reliefs and concessions have been granted to the Successful Bidders, which had taken over, the purchase of the Corporate Debtor as a going concern.

4. We have heard the learned senior counsel for the Applicant and the justification placed for the various reliefs and concessions listed in Para 24 of the application. For ready reference and convenience, the content of such reliefs and concessions is given in the Table below in Column 2. Our



justification for granting the reliefs and concessions as sought, with or without any modification or rejection, is given in Column 3 under the 'remarks' -

| Sl.No. (1) | Particulars of the Reliefs and Concessions (2) | Remarks (3) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------|---|--|----------------------------|---------------------------|----------|--------------------------|----------|----------|---------------|-----|----------|----------------|-----|----------|--------------|-----|----------|---------------|-----|----------|------------------|-----|----------|--------------------|-----|--|--------------|------------------|--|
| (a) | All indemnity or protection or relief or concession as available for a Resolution Plan under Section 32A of the Insolvency and Bankruptcy Code, 2016 shall be extended to the present acquisition. | Granted. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (b) | A direction be issued that from the date of passing of the order, the status of the Corporate Debtor shall be reflected as "Active" from the status of "liquidation". | Granted. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (c) | A direction be passed that the existing members as appearing on the Board of Directors of the Corporate Debtor be removed without any amount payable to them in any name including any severance compensation payable to them. Further, a direction be issued upon the Liquidator to appoint the following persons as the new directors on the Board of the Corporate Debtor. <ol style="list-style-type: none"> 1. Rakesh Lahoti DIN: 00511829 2. Bipin Soni DIN: 00652905 3. Meenu Maheshwari DIN: 07113136 | Granted. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (d) | A direction be issued that in lieu of the amount deposited by the applicant company with the liquidator, the following shall occur: - <ul style="list-style-type: none"> • All the existing shares of the Corporate Debtor including in Demat mode or physical mode shall be extinguished without any consideration, and rights and liabilities arising out of the same shall also be extinguished; • A direction be given to issue, allot equity shares in following names, without taking any approval under or following any further process of Companies Act, 2013: <table border="1" style="margin-left: 40px;"> <thead> <tr> <th>Sl.No.</th> <th>Name of Shareholder</th> <th>No. of Shareholder</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Arrhum Tradelink Pvt Ltd</td> <td>9,99,400</td> </tr> <tr> <td>2</td> <td>Rakesh Lahoti</td> <td>100</td> </tr> <tr> <td>3</td> <td>Baluram Lahoti</td> <td>100</td> </tr> <tr> <td>4</td> <td>Jyoti Lahoti</td> <td>100</td> </tr> <tr> <td>5</td> <td>Raghav Lahoti</td> <td>100</td> </tr> <tr> <td>6</td> <td>Kamladevi Lahoti</td> <td>100</td> </tr> <tr> <td>7</td> <td>Baluram Lahoti HUF</td> <td>100</td> </tr> <tr> <td></td> <td>Total</td> <td>10,00,000</td> </tr> </tbody> </table> | Sl.No. | Name of Shareholder | No. of Shareholder | 1 | Arrhum Tradelink Pvt Ltd | 9,99,400 | 2 | Rakesh Lahoti | 100 | 3 | Baluram Lahoti | 100 | 4 | Jyoti Lahoti | 100 | 5 | Raghav Lahoti | 100 | 6 | Kamladevi Lahoti | 100 | 7 | Baluram Lahoti HUF | 100 | | Total | 10,00,000 | Granted. However, the formalities as required in the RoC will have to be made. |
| Sl.No. | Name of Shareholder | No. of Shareholder | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | Arrhum Tradelink Pvt Ltd | 9,99,400 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | Rakesh Lahoti | 100 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | Baluram Lahoti | 100 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | Jyoti Lahoti | 100 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | Raghav Lahoti | 100 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | Kamladevi Lahoti | 100 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | Baluram Lahoti HUF | 100 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Total | 10,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (e) | A direction be issued that all the claims or demands made by, or liabilities or obligations whatsoever of any type or kind, owned or payable to any actual or potential creditors, of the Corporate Debtor including Government Dues or any statutory authority (including but not limited to liabilities, interest and penalties, duties, etc. on account of income-tax, Tax Deducted at Source (TDS), tax collection at source (TCS), Goods and Services Tax (GST), custom duty, Excise Duty, value added tax, service tax, Central Sales Tax, State Sales Tax, stamp duties, property tax, wealth-tax, cess, DGFT dues, Registrar of Companies, Investor | The unpaid liabilities of the past period shall be extinguished and the same shall be converted as a "Capital Reserve" in accordance with the Indian Accounting Standards. | | | | | | | | | | | | | | | | | | | | | | | | | | | |



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| | Education and Protection fund, & other statutory dues, etc. whether direct or indirect, whether admitted or not, due or contingent, asserted or un-asserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed in relation to any period prior to the date of allowing the present application will be written off in full and shall stand permanently extinguished; | |
| (f) | A declaration be issued that all the assets of the Corporate Debtor shall be freely available to the Applicant without any claim of any creditor thereupon. | Granted subject to the terms of the e-auction. |
| (g) | A declaration be made to the effect that all kinds of charges/lien on the land and buildings and other assets of the Corporate Debtor by any creditors including banks, statutory authority like RoC, Stamp Authority, Tax Authority, etc. shall stand permanently extinguished from the date of allowing the present application; | Granted subject to the terms of the e-auction. |
| (h) | A direction be passed upon the Secured Financial Creditors, namely, A, B, C to issue "No Dues Certificate(s)" to the Applicant so as to enable the removal of charge from the web portal of the Ministry of Corporate Affairs or any other registration authority. | Granted. |
| (i) | A direction be passed upon the Financial Creditors to remove the name of the Corporate Debtor as a defaulter or Non-Performing Asset and declare it as "Standard" over the Credit Repositories including but not limited to Trans Union CIBIL Limited, Experian, Central Repository of Information on Large Credits etc. | Granted. |
| (j) | A direction be issued that all inquiries, investigations, assessments, notices, causes of action, suits, claims, disputes, litigations, arbitration, or other judicial, regulatory or administrative proceedings against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor (other than against the Erstwhile Promoters or former members of the management of the Corporate Debtor), pending or threatened, present or future, including any third party dispute, in relation to any period prior to the date of allowing the present application or arising on account of the Acquisition shall be deemed to be withdrawn or dismissed; | Granted. |
| (k) | A direction be issued that any non-compliance of provisions of any laws including non-compliance with the statutory authorities including RoC and SEBI and non-compliance of any rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions or non-filing of any returns or information with the statutory authorities for any period prior to the date of allowing the present application Acquisition shall be deemed to be extinguished without any further deed, act or compliance required in this regard. Consequentially, all the statutory authorities be directed to remove the name of the Corporate Debtor from the list of defaulters/non-compliant entity without any further compliance of prior period; | Granted. |
| (l) | A direction be issued that all civil or criminal proceedings that may have been filed or which could have been filed in future on account of any act, deed, non-compliance, misconduct or violation committed by the Corporate Debtor before the date of allowing the present application, shall be deemed to have been extinguished and no action shall be taken against the Corporate Debtor or the new management thereof in future on account of any such offence which is related to a period prior to the date of order; | Granted. |
| (m) | All the contracts, leases, licences, or rights as awarded to or | The corporate debtor / |



| | | |
|--|---|--|
| | entrusted with the Corporate Debtor to remain intact; and no hostile or recovery action shall ever be taken against the Corporate Debtor on account of past arrears or insolvency or on account of change of management which has resulted on account of the present acquisition. | successful bidder will have to approach the concerned authorities under other laws and the authority concerned will consider the request keeping in view the intent and spirit of the IBC. |
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5. After having considered the prayers of the Applicant, we grant the reliefs and concessions as mentioned in column (2) of the Table hereinabove, subject to our ‘*remarks*’ as given in column (3) of the Table. It is clarified that certain reliefs/concessions require the approval/consent of the concerned authorities under other laws and as such the Corporate Debtor/successful bidder will have to approach them who will consider it under such other laws keeping in view the intent and spirit of the IBC.

6. It is also clarified that the unpaid liabilities/existing share capital of the Corporate Debtor, which are to be extinguished as per the relief and concessions granted hereinabove, are to be credited into the “Capital Reserve” in accordance with applicable Indian Accounting Standards; and the accumulated losses, if any, as per the balance sheet prior to the date of acquisition will have to be adjusted/set off as against such “capital reserve”.

7. With this, **IA(IB)/253(AHM)2023** is **allowed** to that extent only and **disposed of**.

-Sd-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Abhishek Bhadauria / Stenographer

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)