

**NATIONAL COMPANY LAW TRIBUNAL
COURT No. – I, MUMBAI BENCH**

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IA 744/2021 IA 747/2021 In C.P.(IB)3861/MB/2018

Rushahs Engineering Co. Pvt Ltd V/S Cogent Engineers Pvt. Ltd.

*** **

Dated 15th April, 2021

ORDER

Sr. No. 5

The matter is taken up on VC.

IA 747/2021

Mr. Kairav Trivedi, Resolution Professional of the Corporate Debtor (RP) is present. This is an Application filed by the RP under Section 33(1) (a) of the Insolvency and Bankruptcy Code, 2016 (the Code) seeking liquidation of the Corporate Debtor. It is submitted that the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor commenced on 30/08/2019. An Application bearing IA No. 1224 of 2020 filed in the year 2020, for extension of the CIRP is still pending for consideration before this Bench. Meanwhile despite the lapse of 540 days, the revival of the Company is not possible and no Expression of Interest (EoI) has been received. It is submitted that the Factory, Land & Building were already sold in the year 2016. The Committee of Creditors (CoC) has not held meeting since 07/03/2020. Accordingly, the Applicant filed this Application for the following reliefs:

- a) *The CIRP has been initiated on 16/09/2019, thus a period of over 540 days expired. The maximum period permitted for completion of Corporate Insolvency Resolution Process under Section 12 of IBC of 330 days being long over and no resolution / revival possible as the factory land Building sold since 2016. Therefore, the Hon'ble Bench may pass order for liquidation under Section 33(1) for Cogent*

Engineers Pvt Ltd which is under CIRP vide order CP (IB) No. 3861/NCLT/MB/2018 of IBC.

- b) To appoint Kairav Anil Trivedi having registration No. IBBI/IPA-002/IP-N00728/2018-19/12332 having residence address at 23, A 5th Floor, Jyoti Bldg. Baraquatali Dargah Marg, Wadala, East Mumbai-400 037, and office address at 413-414 Shramjeevan, Opp Lodha New Cuffee Parade Wadala East Mumbai 400 037 as the Liquidator of Cogent Engineers Pvt Ltd or any other Insolvency Professional as may deem fit and proper.*
- c) Pass any such order / directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of this Case.*

It is submitted by the Applicant that he has filed his consent to act as Liquidator of the Corporate Debtor. On hearing the Applicant and on perusal of the pleadings, we are satisfied that no purpose will be served by keeping the matter pending and feel that the Corporate Debtor needs to be liquidated. We accordingly pass the following order:

- a) The Corporate Debtor i.e. Cogent Engineers Pvt Ltd. shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) Mr. Kairav Anil Trivedi, (IBBI Registration No. IBBI/IPA-002/IP-N00728/2018-19/12332, an Insolvency Professional is appointed to act as the Liquidator of the Corporate Debtor. He shall receive fees in terms of section 34(8) of the Code and Regulation 4 (3) of the IBBI (Liquidation Process) Regulations, 2016 (the Regulations).
- c) He shall issue public announcement stating that Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the Code shall cease to operate here from.

- e) Subject to section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Regulations.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- j) Certified Copy of the Order shall be furnished to the IBBI, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra, the Registered Office of the Corporate Debtor; and the Liquidator.

Accordingly, IA No. 747 of 2021 is allowed and disposed of.

IA 1224/2020

Not on board. Taken up on board upon mentioning. In view of the order passed in IA No. 747 of 2021 (i.e., Liquidation Application) nothing survives in this Application bearing IA No. 1224 of 2020 and the same has become infructuous. Accordingly, Application bearing IA No. 1224 of 2020 is dismissed as infructuous.

IA 744/2021

Mr. Kairav A. Trivedi, RP, Mr. Supratik Roy, Respondent No. 1 (Ex Director of the Corporate Debtor) party in person and Mr. Swapnil, Counsel for the Respondent Nos. 8 to 11 are present. There is no representation from the side of other Respondents.

List this matter on 10/05/2021 along with other connected Applications.

Respondents may file reply, if any, before the next date of hearing by serving copies on the other side well ahead. The Applicant is directed to serve notice on the other Respondents intimating the next date of hearing and file proof of service. The Applicant is also directed to furnish the soft copy of the Application to the Bench forthwith .

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
JANAB MOHAMMED AJMAL
Member (Judicial)