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15/10/19

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

IA 448 of 2019 in C.P.(I.B) No. 366/NCLT/AHM/2018

Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 01.10.2019

Name of the Company: Divyesh Desai RP for Shri Aster Silicates Ltd

Section of the Companies Act : Section 33, 34 of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.				
2.				

ORDER

None appeared on behalf of the Applicant.

The Order is pronounced in the open court, vide separate sheet.

CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 01st day of October, 2019

Resolution Process ("CIRP") of the Corproate Debtor on the ground that the Corporate Debtor committed default in repayment of Rs. 12,35,000/- As the Corporate Debtor failed to repay its dues, the captioned Petition was admitted by this Tribunal vide Order dated 15th October, 2018 (with CIRP commencement date as 22nd October, 2018) and appointed mr. Parag Sheth as an Interim Resolution Professional ("IRP") of the Corporate Debtor Company.

1.2 It is stated in the IA that in the third meeting of CoC, members proposed Mr. Divyesh Desai as the Resolution Professional to replace the IRP. This Tribunal vide order dated 21st February, 2019 appointed Mr. Divyesh Desai as the Resolution Professional.

2. The Applicant, the RP of the Corporate Debtor filed IA No. 448 of 2019 in the aforesaid Company Petition (IB) No. 448 of 2019 for liquidation of the Corporate Debtor Shri Aster Silicates Ltd under section 33 of the Insolvency and Bankruptcy Code, 2016 and for the appointment of the Liquidator.

3. It is stated in the application that since the CIRP was going to expire on 19.04.2019, the RP moved an IA No. 215 of 2019 on 10.04.2019 for the extension of time for a further period of 90 days beyond 180 days for the completion of the CIRP process as provided under section 12(2) of the Code. This Tribunal vide its Order dated 18.04.2019 extended the CIRP period by 90 days beyond 180 days. The extended period for CIRP period expired on 18.07.2019.

4. It is stated by the RP that operations of the Corporate Debtor have stopped since FY 2017; there are no employees on the rolls of the Corporate Debtor and the CoC members who are looking to recover their debts from the Corporate Debtor are compelled to contribute in order to maintain the Corporate Debtor during the CIRP which is adding further to the woes of members of CoC. Therefore, in view of this, the present Application is moved under Section 33 of the Insolvency and Bankruptcy Code, 2016 with following prayers:

NATIONAL COMPANY LAW TRIBUNAL
सत्यमेव जयते
AHMEDABAD

Bhatkalingar

Harsar

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

I.A. No. 448 of 2019
in
CP(IB) No. 366 of 2018

In the matter of:

IA 439/2019

Divyesh Desai,
RP for Shri Aster Silicates Ltd.,
(Under Corporate Insolvency Resolution Process)
B2, 402B, Marathon Innova,
Off Ganpatrao Kadam Marg,
Lower Parel (West),
Mumbai 400 003

...Applicant

in

CP(IB) No. 248 of 2018

Hasmukhbhai Somabhai Patel ...Applicant

Vs.

Shri Aster Silicates Ltd. ...Respondent

Order delivered on 1st October, 2019

Coram: Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)

Appearance :

ORDER

[Ms. Manorama Kumari, Member (Judicial)

1.1 CP(IB)No. 366/2018 was filed by an Operational Creditor, Hasmukhbhai Somabhai Ptel against the Corporate Debtor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IB Code") for seeking initiation of Corporate Insolvency

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Chockalingam

Manorama

(a) To pass an order directing the Corporate Debtor to be liquidated and direct for issuance of public announcement stating that the Corporate Debtor M/s. Shri Aster Silicates Limited is in liquidation direct that the order be sent to Registrar of Companies, Gujarat State.

(b) To pass an order appointing the current Resolution Profession Mr. Divyesh Desai, as the liquidator of M/s. Shri Aster Silicates Limited under Section 34 of the Code along with all the powers as required under the Code.

(c) To fix remuneration of Liquidator as given in table in regulation 4(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 as approved by CoC.

5. Considering all the above facts and documents annexed with the application, this Adjudicating Authority is of the considered view to pass an order of Liquidation in respect of the Corporate Debtor i.e. M/s Shri Aster Silicates Limited. This Tribunal also appoints the Resolution Professional as 'Liquidator' under Section 34(1) of the IB Code; and his remuneration is fixed as given in table in regulation 4(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and as approved by CoC in its 6th meeting held on 04.07.2019

6. In view of the order of the Hon'ble Supreme Court in the case of ***Allahabad Bank vs. ARC Holding Ltd.***, {[2000] 28 SCL 394 (SC) (para 19)}, we pass the following orders:

a) The Liquidator, as far as possible, shall try to dispose of the Corporate Debtor Company as a going concern after publication of notice in newspaper with the reserve price which shall be equal to the total debt amount including interest and in the absence of good offer, the Liquidator shall try maximum to recover over and above the liquidation value and allow maximum period applicable for the sale of the Corporate Debtor Company as a going concern, which will be applicable for three months only from the date of the order. If the process of sale as a going concern is failed during this period,

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then process of sale of the assets of the Corporate Debtor Company will be according to the provisions contained in Chapter VI of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. In case it is not concluded within this period, the order of this Tribunal directing the sale of the Corporate Debtor Company as a going concern shall stand set aside and Corporate Debtor Company to be liquidated in the manner as laid down in chapter III of the Liquidation Process as provided in IB Code.

b) The Liquidator is further directed to issue public announcement stating that the Corporate Debtor is in liquidation.

c) It is also ordered that copy of the order be sent to the Registrar of Companies with which the Corporate Debtor is registered.

7. Accordingly, the instant IA stands disposed of with the above observations.

Chockalingam Thirunavukkarasu
Adjudicating Authority
Member (Technical)

Ms. Manorama Kumari
Adjudicating Authority
Member (Judicial)

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD

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Certified to be True Copy of the Original
Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad