

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH
COURT III**

IA-521/2022
In
CP (IB) – 711/ND/2020
Filed under Section 33(2)
Of the IBC, 2016

In the matter of Destination Texofab Pvt. Ltd. (CD)

Atiuttam Prasad Singh
Interim Resolution Professional

... Applicant

Order delivered on 26.05.2022

CORAM:

Shri Bachu Venkat Balaram Das
Hon'ble Member (Judicial)

Shri Narender Kumar Bhola
Hon'ble Member (Technical)

Parties / Counsels present

For Applicant : Mr. Atiuttam Prasad Singh (IRP)

ORDER

Per: NARENDER KUMAR BHOLA, MEMBER (T)

1. This relates to IA- 521/2022 filed in CP (IB) – 711/ND/2020 filed by Mr. Atiuttam Prasad Singh (hereinafter referred to as 'Resolution Professional') under Section 33(2) of the Insolvency and Bankruptcy Code,

2016. The prayer made in the Application is to pass an order of liquidation pertaining to the Corporate Debtor (CD) viz., Destination Texofab Pvt. Ltd.

2. Originally the captioned petition was admitted by this Adjudicating Authority vide Order dated 25.10.2021, the Corporate Insolvency Resolution Process (CIRP) was initiated of the Corporate Debtor and the applicant was appointed as Interim Resolution Professional (IRP) vide the same order.
3. It is submitted that the IRP has performed his duties as per the IBC and applicable regulations and conducted 2 CoC meetings. It is stated that the applicant has received the claim from one Operational creditor and CoC was constituted with sole OC of the Corporate Debtor. It is further stated that in 2nd CoC meeting dated 05.01.2022, the sole CoC member in the meeting held on 07.01.2022 pointed out that as per the Audited Annual Accounts of the Corporate Debtor for the FY 2020-21, the Corporate Debtor is non-operational with insignificant assets, no possibility of receiving viable resolution plan, even the assets are insufficient to cover even the CIRP expenses.



In view of the insignificant assets of the Corporate Debtor, the CoC has decided to liquidate the Corporate Debtor, the relevant para of the resolution is as follows:

“RESOLVED THAT Committee of Creditors of Destination Texofab Private Limited (Under CIRP) in view of the insignificant Assets of the Corporate Debtor to cover the CIRP and Liquidation Costs, be and is hereby approve, pursuant to the provisions of Section 33 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed thereunder, Liquidation of Destination Texofab Private Limited (Under CIRP) and to be liquidated in the manner as laid down in Insolvency and Bankruptcy Code, 2016

RESOLVED FURTHER THAT pursuant to the provisions of Section 34 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed there under and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder, Mr. Atiuttam Prasad Singh (IBBI Regn No.: IBBI/IPA-001/IP-



P01914/2019-2020/12914), be and is hereby appointed as the Liquidator for the purposes of liquidation of Corporate Debtor.”

4. Since no resolution plan has been received by this Adjudicating Authority before the expiry of the maximum insolvency resolution process period and furthermore, the CoC has decided to liquidate the Corporate Debtor, therefore, the Corporate Debtor has to be ordered for Liquidation.

ORDER

5. In view of the facts and circumstances recorded by Applicant in IA- 521/2022 filed in CP (IB) – 711/ND/2020 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows: -

I. This Authority hereby orders for liquidation of the Corporate Debtor (CD) viz., M/s. Destination Texofab Pvt. Ltd. which shall be conducted in the manner as laid

down in Chapter III of part II of the Insolvency & Bankruptcy Code, 2016;

II. This Authority hereby appoints Mr. Atiuttam Prasad Singh (IBBI Regn No: IBBI/IPA-001/IP-P01914/2019-2020/12914 (Applicant) as Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. Subject to Section 52 of the Insolvency & Bankruptcy Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

IV. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

V. This Order shall be deemed to be a notice of

discharge to the officers, employees and workmen of the
IA-521/2022 in CP (IB)-711 /ND/2020

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Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

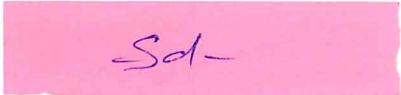
VI. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator viz., Mr. Atiuttam Prasad Singh, in addition to it, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Insolvency & Bankruptcy Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

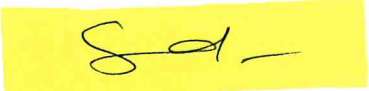
VIII. The Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings as resolved by the CoC in its 2nd meeting.

IX. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies (ROC) with which the Corporate Debtor is registered, OL, Registered Office of the Corporate Debtor and Liquidator viz. Mr. Atiuttam Prasad Singh, for information and compliance.

6. In terms of the above, IA-521/2022 filed in CP (IB) – 711/ND/2020 by the Applicants under Section 33(2) of the Insolvency & Bankruptcy Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s Destination Texofab Pvt. Ltd. is **Allowed**.



(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)



(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)