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## IN THE NATIONAL COMPANY LAW TRIBUNAL BENGALURU BENCH

I.A No.221 of 2018 in  
C.P. (IB) No.133/BB/2017  
U/S 33 of IBC, 2016

Smt. Ramanathan Bhuvaneshwari  
Resolution Professional of  
Zed Fabs India Private Limited  
31/1, 2<sup>nd</sup> Main Road Vyalikaval  
Bangalore – 560 003

- Applicant/  
Resolution Professional

### In the matter of:

M/s.Khemka Plyland  
No.207, 1<sup>st</sup> Main Road, 60 Feet,  
Shivanagar, West of Chord Road,  
Bangalore – 560 072

- Petitioner

### **Versus**

M/s.Zeb Fabs India Private Limited  
No.31/1, 2<sup>nd</sup> Main Road, Vyalikaval,  
Bangalore – 560 003

- Respondent

**Date of Order: 20<sup>th</sup> September, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

### **Parties/Counsels Present:**

For the Applicant : Smt. R.Bhuvaneshwari, IRP  
For the Respondent : None



**ORDER**

**Per :** Rajeswara Rao Vittanala, Member (J)

1. I.A No.221 of 2018 in C.P.(IB) No.133/BB/2017 is filed by Smt. R.Bhuvaneshwari (Applicant/Resolution Professional) under Section 33 (2) of the Code, by inter seeking to order for liquidation of the Corporate Debtor Company, Zed Fabs India Private Limited to order appointing Smt.Ramanathan Bhuvaneshwari, the Resolution Professional, to act as Liquidator u/S 34(1) of the Code, as she has submitted written consent in the prescribed form to act as Liquidator of Zed Fabs (India) Private Limited etc.

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question , are as follows:

1) M/s.Zed Fabs India Private Limited has been incorporated on 11.01.2011 with the Registrar of Companies Bangalore bearing CIN U28113KA2011PTC056591 and the Company was engaged in the business of manufacturing and dealing in the furniture and wood products. The Corporate Debtor was incorporated mainly to cater to the furnishing and furniture requirements of the Group Companies which are into Real Estate business and the Company does not have outside customers. Further to the Hon'ble NCLT vide order dated 2<sup>nd</sup> February, 2018, IRP constituted the CoC with sole Financial Creditor, namely, Bank of Baroda, Indiranagar Branch.



- 2) During the CoC meetings, the Resolution Professional in order to make invitation to Resolution Applicants to sell the business as a going concern, prepared the information memorandum and evaluation matrix and got the same approved by the CoC. While Resolution Professional contacted the potential Resolution Applicants and initiated the conversation, the overall response was that except plant and machinery, there are no other assets in the form of customers, brand name, Employees, etc. and the business has been closed down for considerable time. Hence, the response was that only the Plant and Machinery can be sold and not the entire business. While, the response from potential applicants and was interest to buy plant and machinery only, the liquidation value of which is hardly around Rs.15 lakhs, as against the total Outstanding liability of Rs.183,48,959/-.
- 3) It is stated that the CoC felt that it does not make any sense to arrive at Resolution Plan for realizing Rs.15 lakhs and the option to sell the assets would be anyway available in case CoC takes decision to liquidate the Company. Meanwhile, it was observed that the Respondent No.1 i.e. BCIL Red Earth India Private Limited, the Respondent No.2 i.e. Biodiversity Conservation (India) Private Limited and Respondent No.3 i.e BCIL Green Energy India Private Limited are some of the group of Companies, having common



Director, namely, Mr.Hariharn, who is also the Promoter cum Director of the Corporate Debtor.

- 4) Initially, M/s.Khemka Plyland, was filed a Company Petition bearing C.P(IB) No.133/BB/2017 against the M/s.Zed Fabs India Private Limited (Corporate Debtor), under Section 9 of the I&BC, 2016 R/w Rule 6 of the I&BC (AAA) Rules, 2016, which was admitted on 02.02.2018 by initiating CIRP, appointing Smt.Ramanathan Bhuvaneshwari, as Interim Resolution Professional imposing moratorium etc. Subsequently, CoC of the Corporate Debtor in their first meeting held on 07.03.2018, confirmed the appointment of Smt. Ramanathan Bhuvaneshwari, as Interim Resolution Professional holding Reg. No.IBBI/IPA-002/IP-N00306/2017-18/10864, Resolution Professional, by an Unanimous Votes cast. In compliance with Section 22(3)(a) of the IBC, the Committee of Creditors (CoC) hereby communicate its decision on March 27, 2018 of continuing Ms.Ramanathan Bhuvaneshwari as Resolution Professional to the Adjudicating Authority.
- 5) It is stated that the Corporate Debtor i.e Zed Fabs India Private Limited has been incorporated on 11.01.2011 with the Registrar of Companies Bangalore bearing CIN U28113KA2011PTC056591 and the Company was engaged in the business of manufacturing and dealing in the furniture and wood products. The Corporate Debtor was incorporated mainly to cater to the Furnishing and Furniture requirements of the Group Company which



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are into Real Estate businesses and the Company does not have outside customers. Further to the NCLT vide order dated 2<sup>nd</sup> February, 2018, IRP constituted the CoC with sole Financial Creditor, namely, Bank of Baroda, Indiranagar Branch. It is also stated that Resolution Professional conducted the following CoC meetings, namely, 2<sup>nd</sup> Meeting on 12<sup>th</sup> April, 2018, 3<sup>rd</sup> Meeting on 23<sup>rd</sup> April, 2018 & 4<sup>th</sup> Meeting on 17<sup>th</sup> July, 2018.

6) It is stated that the Corporate Debtor has not been in business for the past 2 years. Resolution Professional with the Statutory Auditors of the Corporate Debtor and got the Financials Audited on 27<sup>th</sup> February, 2018, for the years 2015-16, 2016-17 and also the Certified Financials for the period April 2017 to December 2017. As per the audited and Certified Financials, the Company has the following assets:

- a) The Company has plant and machinery of Rs.55,40,292/-, which got valued by the Valuers appointed by Resolution Professional for around Rs.15 Lakhs Only.
- b) Receivable of Rs.97 Lakhs is due from Group Companies, for which the Resolution Professional has sent notice to the Group Companies to remit the same.
- c) An amount of Rs.3.74 Crore is due from Group Companies as the same are in the form of Inter Corporate transaction, for which Resolution Professional has filed an application u/S 66 of the



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Code, as the same amounts to diversion of funds with fraudulent intention, while liabilities, including Bank loans and dues to Government are outstanding.

d) Against the above assets, the Company has liabilities as below:

SL N O.	PARTICULARS	AMOUNT (RS.)
1.	CIRP Costs	530,500/-
2.	Dues to Financial Creditor – Bank of Baroda	63,05,072/-
3.	Trade payables	452,571/-
4.	Duties and Taxes – (ESI – Rs.409,442/-, TDS – Rs.22,867/- VAT – Rs.70,12,738/- interest on above items – Rs.21,36,925)	95,81,972/-
5.	Salaries and wages and other expenses	20,09,344/-
	<b>Total</b>	<b>1,83,48,959/-</b>

Also, the Net Liability to Group Companies – Rs.2,29,48,831/-

e) Against the above Liabilities, the Resolution Professional has received claims worth Rs.69,69,862/- Plus Rs.4,05,338/- from the original Petitioner M/s. Khemka Plyland, totaling to Rs.73,75,200/- only.

7) During the previous Meetings of CoC, CoC decided to recover the dues from Group Companies of Rs.3.74 Crores is payable from 3(three) Group Companies and also Rs.97 Lakhs is Trade Receivable from the Group



Companies, in order to arrive at a Resolution Plan to meet the liabilities of Rs.1.83 Crores.

8) The dues from the Group Companies and Receivables from the Group Companies are as below:

SL No.	Group Company Name	Inter-corporate dues Receivable Rs.	Trade Receivable	Total Receivable
1.	Biodiversity Conservation Pvt. Ltd	1,49,26,282	29,88,621	179,14,903
2.	BCIL Red Earth (India) Private Limited	2,20,02,243	67,17,045	2,87,19,288
3.	BCIL Green Energy (India) Pvt. Ltd	1,50,606		1,50,606
4.	Altech Foundation	68,500		68,500
	Total	3,74,47,631	97,05,666	4,68,53,297

9) Meanwhile, the CoC considered, discussed and approved the Evaluation matrix, in the 2<sup>nd</sup> Meeting of CoC dated 12<sup>th</sup> April, 2018 and directed the Resolution Professional to make private placement of advertisement.

10) Accordingly, Resolution Professional filed Form-G with IBBI which was advertised and though private invitation received interests from around 14 potential Resolution Applicants. They all went through the underlying value

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and technical part of the business of the Company. As the Company was not a going concern and there were no other assets involved, namely, No Brand name, no customers as the Corporate Debtor was supplying only to the Group Companies and no orders on hand. Hence, few of them were willing to look at purchase of only plant and machinery in the form of asset purchase.

- 11) As the Plant and Machinery Value as per valuation report is hardly Rs.15 Lakhs as against the Liability of around Rs.1.83 Crores, CoC decided to put the Resolution Plan "On Hold". As there are huge dues from Group Companies and liability of Rs.1.83 Cores, CoC consider the dues from Group Companies, as diversion of funds by the Promoters and accordingly directed, the Resolution Professional to file an application with Adjudicating Authority towards the complete dues from Group Companies.
- 12) As the CIRP period of 180 days is expiring on 1<sup>st</sup> August, 2018, Resolution Professional conducted the 4<sup>th</sup> meeting of CoC on 17<sup>th</sup> July, 2018, in order to discuss and decide on the extension of CIRP by another 90 days, as permitted by the Code, pending orders from Adjudicating Authority on the application filed under Section 66 of the Code. CoC is in the 4<sup>th</sup> Meeting discussed and decided "Not to extend the CIRP" beyond 180 days.w.e.f. 2<sup>nd</sup> August, 2018, as the CoC in the meeting held on 17<sup>th</sup> July, 2018 have unanimously resolved 'Not to extend the CIRP beyond 180 days and



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had also decided in the CoC meeting held on 23<sup>rd</sup> April, 2018 to 'Put the CIRP on hold till the dues from Group Companies are recovered;

3. Heard Smt.R.Bhuvaneshwari learned Resolution Professional. We have carefully perused the pleadings of the party and extant provisions of the Code.
4. As stated supra the 4<sup>th</sup> Meeting of CoC of Zed Fabs India Private Limited dated 17<sup>th</sup> July, 2018 has decided to liquidate the Corporate Debtor Company (i.e Zed Fabs India Private Limited) with a requisite majority and the Application is filed in accordance with law. Since there is no possibilities of reviving the Company, it is just and proper to pass an order to liquidate the Corporate Debtor Company by appointing Smt. R.Bhuvaneshwari, Interim Resolution Professional as Liquidator.
5. Therefore, the Adjudicating Authority, by exercising powers conferred under Section 33 of the IBC, 2016 , IA No.221/2018 in C.P.(IB) No.133/BB/2017 with following directions:
  - a) We hereby order that M/s.Zed Fabs India Private Limited, Corporate Debtor to be liquidated in the manner as laid down in Chapter III Liquidation process of the Code.
  - b) We hereby appointed Smt.Ramanathan Bhuvaneshwari as a Liquidator subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI.



- c) We hereby directed the Liquidator to issue immediate public announcement by stating that the Corporate Debtor is in liquidation.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Karnataka for information and necessary action.
- e) The liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder framed by the IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders issued in this regard.
- f) Post the case for report of Liquidator on **21.10.2019**.

  
**(ASHOK KUMAR MISHRA)**  
**MEMBER, TECHNICAL**

  
**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

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Deputy Registrar  
National Company Law Tribunal  
Bengaluru Bench

  
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