

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

23. I.A. 688/2021
I.A. 594/2021
IN
C.P.(IB)-3235(MB)/2018

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **06.04.2021**

NAME OF THE PARTIES: Benteler Trading International Gmbh
V/s
Excel Metal Processors Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

I.A. 594/2021

1. Mr. Shaves Mukri, counsel for the Resolution Professional is present through virtual hearing.
2. The above IA 594 of 2021 has been filed under Section 33 (2) of Insolvency and Bankruptcy Code, 2016 for the liquidation of the Corporate Debtor Company subsequent to a CoC resolution dated 12.02.2021.
3. Relevant portion of the CoC Resolution of 12.02.2021 is as follows –

“RESOLVED THAT, the approval of members of COC is hereby granted for making an application for Liquidation of Corporate Debtor with the Hon’ble NCLT Mumbai, and that the Resolution Professional is hereby authorized to file the application for Liquidation through Legal Counsel M/s A&G Legal Associates LLP”

“FURTHER RESOLVED that the Resolution Professional Mr. Jeetendra Rajpal Daryani having registration no. IBBI/IPA-001/IP-P00678/2017-18/11146 is appointed as Liquidator of the Corporate Debtor in terms of the provisions of the Code.”

4. The bench notes that the Resolution Professional Mr. Jeetendra Rajpal Daryani having registration no. *IBBI/IPA-001/IP-P00678/2017-18/11146* appointed as a Liquidator by the COC in its meeting dated 12.02.2021 by the 100% voting share.
5. In view of above, the Bench approves the IA No 594 of 2021 and the Liquidation of the Corporate Debtor Company and appointing of *Mr. Jeetendra Rajpal Daryani* as liquidator in the matter.
6. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, for the RP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), we are of the view that this case is fit to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been submitted before the Adjudicating Authority by the Resolution Professional, and accordingly, this Bench orders;
 - a. that the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
 - b. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
 - c. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - d. That the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

- e. That on having liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
- f. This liquidation order shall be a deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
7. With the above directions, IA 594 of 2021 is allowed and disposed off.

I.A. 688/2021

In view of the order passed in IA 594/2021, the above I.A bearing no. 688/2021 becomes infructuous and disposed of accordingly.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)