

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

IA/89(AHM) 2021 in CP (IB) No. 225 of 2019

Coram: MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
NATIONAL COMPANY LAW TRIBUNAL , AHMEDABAD BENCH ON 13.04.2021

Name of the Company: Kailash T Shah RP of Palav Synthetics Pvt. Ltd.
V/s.
Palav Synthetics Pvt. Ltd

Section: 33(1), 33(2) & 34 of the Insolvency & Bankruptcy Code,

ORDER

The case is fixed for pronouncement of order.

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


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 13th day of April, 2021.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT -I**

**I.A. No. 89 of 2021
IN
CP(IB) No. 225/9/NCLT/AHM/2019**

In the matter of:

[An Application is filed under Section 33(1), 33(2) & 34(1) of the Insolvency & Bankruptcy Code, 2016]

In The Matter Of:

Mr. Kailash T Shah

Resolution Professional for
M/s. Palav Synthetics Pvt Ltd
Having address at:
505, 21st Century Business Centre,
New World Trade Centre, Ring Road,
Surat – 395002.

....Applicant/RP

Versus

1. M/s. Palav Synthetics Private Limited

Having Registered Office at:
203, Abhushan Complex,
Parle Point, Ghod Dod Road
Surat – 395001

....Corporate Debtor

2. M/s. Sarvoday Sahkari Bank Limited

Sole Financial Creditor
Having Registered Office at:
"Shree Nidhi", Khan Bazar
Varaccha Road, Surat-395006

....Sole Member of CoC

Branch at:

20-21, 3rd Floor, Ring Road
(Khatodara) Branch, Surat-395002

3. Mr. Dineshbhai Premjibhai Lathidadia

Suspended Director having address at:



203, Abhushan Apprtment,
Parle Point, Ghod Dod Road,
Surat – 395007

4. Smt. Rashmiben Dineshbhai Lathidadia

Suspended Director having address at:
203, Abhushan Apprtment,
Parle Point, Ghod Dod Road,
Surat – 395007

....Respondents

Order Reserved on: 24th March, 2021
Order Pronounced on: 13th April, 2021

Coram: MADAN B GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:

Learned PCS Mr. Vinodkumar S Shah appeared for the Applicant/RP.
Resolution Professional Mr. Kailash T Shah appeared.

ORDER

[Per Virendra Kumar Gupta, Member (T)]

1. The present Interlocutory Application is filed by the Resolution Professional seeking for passing an Order of liquidation under Section 33(1), 33(2) & 34(1) of the Insolvency & Bankruptcy Code, 2016 for initiation of Liquidation Process of **M/s Palav Synthetics Private limited** the Corporate Debtor.

2. The facts, in brief, are that:

- I. This Adjudicating Authority admitted Corporate Debtor into Corporate Insolvency Resolution Process vide its order dated 23rd January, 2020 in CP(IB) No. 225/9/NCLT/AHM/2019 and appointed Ms. Minal Alpesh Shah as "IRP".
- II. The IRP made the Public announcement in terms of Section 15 of the Insolvency & Bankruptcy Code, 2016 and invited claims from all creditors in prescribed Form 'A', which was published in the newspapers viz. **'Economic Times (English)'** and **'Sandesh (Gujarati)'** on 15th February, 2020.
- III. The intimation of public announcement and CIRP commencement along with NCLT order was given to IBBI, IIP, all the members of the suspended board of the corporate debtor, auditors, ROC, IT dept., and Commercial Dept. by IRP/RP
- IV. IRP filed a report of constitution of Committee of Creditors (COC) on 02.03.2020 as per Regulation 17(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate

Debtor) Regulations, 2016 before the Adjudicating Authority which disclosed the names of the creditors who had filed their claims. In this regard the Committee of Creditors is constituted with only one Financial Creditors as its member:

Sr. No.	Name of the Financial Creditors	Amount Claimed	Amount Admitted (in RS.)	Security interest, if any, in respect of such claims
1	The Sarvodaya Sahakari Bank Limited	3,61,45,904.35	3,61,45,904.35	Secured

V. The first meeting of CoC was held on 09.03.2020, wherein it was, inter alia, decided by the sole member of the CoC to appoint Mr. Kailash T Shah, Insolvency Professional as RP with the permission of this Adjudicating Authority. IA No. 481 of 2020 was filed under Section 19(2) of Insolvency and Bankruptcy Code, 2016 in connection with non-cooperation by the suspended Board of Corporate Debtor and another IA No. 482 of 2020 was filed for appointment of RP in place of IRP. Both the IAs came to be decided by a common order dated 14.09.2020.

- VI. The second meeting of CoC held on 16.10.2020. In the meeting it was decided to make an application for exclusion of time from CIRP process due to COVID-19 for 88 days and extension of time for a further period of 90 days.
- VII. The third meeting of CoC held on 06.01.2021. Present applicant placed before the Committee Information Memorandum, Form-G, RFRP, Eligibility/Ineligibility criteria, EoI process memorandum and Evaluation Matrix. Resolution was placed for approval of EoI (Form G) for publication. However, the sole member of the CoC decided to vote against the resolution. The applicant also proposed transaction audit and accordingly proposed resolution. CoC decided against the resolution.
- VIII. It is stated that the Corporate Debtor as on 31.03.2019, there were certain financial assets and as such the applicant appointed two Valuers namely Mr. Hardik Vikrabhai Patel and Mr. Shreyansh M.

Jain. Reports were received on 15.12.2020 and 10.12.2020. Applicant could not get details of balance as on date of commencement of CIRP, i.e. 23.01.2020 since there is no business activities since long. Value of financial assets is NIL. In the reports of valuers, there are debtors and loans and advance for Rs.4.29 lacs approx, but detailed list of the same is not available by the corporate debtor and, hence, value is considered NIL. There is a TDS recoverable for Rs. 3.83 lacs which is also considered as NIL. Nominal cash balance of Rs. 6520 is not received from the Corporate Debtor and, hence, value of the same is considered as NIL. There are no other assets with the corporate debtor. In the third meeting, sole member of the CoC decided to go for liquidation and authorized the applicant to make the application for liquidation of the corporate debtor.

IX. The fourth CoC meeting was held on 04.03.2021 for a limited purpose to discuss and decide issues relating to liquidation. COC in its third meeting resolved to initiate liquidation process of the

Corporate Debtor with 100% voting share authorizing RP to file application under Section 33 of Insolvency and Bankruptcy Code.

3. We have considered the submissions made by the Learned Counsel and material available on record. It is an admitted fact that period of 180 days has expired from the date of admission of the Corporate Debtor into Corporate Insolvency Resolution Process and no Resolution Plan has been received. The Committee of Creditors by 100% voting has resolved to liquidate the Corporate Debtor. All necessary resolutions in terms of relevant provisions of IBBI (Liquidation Process) Regulations, 2016 have been passed. Form-'H' has also been submitted. Thus, considering these facts and circumstances, we are of the view that there is no other option but to initiate the Liquidation Process in respect of the Corporate Debtor in terms of provision of Section 33(1) of the Insolvency & Bankruptcy Code, 2016. Accordingly, we pass following order:

ORDER

1. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, **Mr. Kailash T Shah** (**Registration No. IBBI/IPA-001/IP-P00267/2016-17/10511**) residing at 505, 21st Century Business Centre, New World Trade Centre,

Ring Road, Surat - 395002, is hereby appointed as a '**Liquidator**' of the Company **M/s. Palav Synthetics Private Limited** which has been duly approved by CoC in its 3rd meeting dated 6th January, 2021.

2. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.
3. The personnel of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
4. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
5. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.


6. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.
7. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.
8. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.
9. This liquidation order shall be 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.
10. The Moratorium declared vide order dated 23.01.2020 in C.P. (I.B.) No.225/9/NCLT/AHM/2019, henceforth, ceases to exist.
11. The present I.A/89(AHM) 2021 is allowed directing the appointed Liquidator to initiate and complete liquidation process as envisaged under Chapter – III of

the Code by following the liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

12. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Operational Creditor, Corporate Debtor, Registrar of the Companies, Resolution Professional cum Liquidator by Speed-post within one week from this order.
13. Accordingly, the present **I.A. No. 89(AHM) 2021 is allowed and stands disposed of.**



**(VIRENDRA KUMAR GUPTA)
MEMBER (T)**



**(MADAN B GOSAVI)
MEMBER (J)**

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