

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

IA 795 of 2019 in CP(IB) 295 of 2018

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 24.06.2020

Name of the Company: Pinakin Shah RP For Usha Multipack Pvt Ltd
V/s
Usha Multipack Pvt Ltd & Anr

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

ORDER

No one appeared for the Applicant.

The Order is pronounced in Open Court. Detail order is recorded vide separate
sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 24th day of June, 2020.

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

I.A. No. 795 of 2019 in

C.P. (I.B.) No.295/7/NCLT/AHM/2018

**Coram: Hon'ble Mr. Madan Bhalachandra Gosavi, Member (J)
Hon'ble Mr. Virendra Kumar Gupta, Member (T)**

In the matter of:

Mr. Pinakin Shah, Resolution Professional of:

M/s. Usha Multipack Pvt. Ltd.
Having address:
A-201, Siddhi Vinayak Towers,
B/h DCP Office, Off. S.G. Highway,
Makarba, Ahmedabad,
(Gujarat), India – 380051.

..... Applicant/ RP

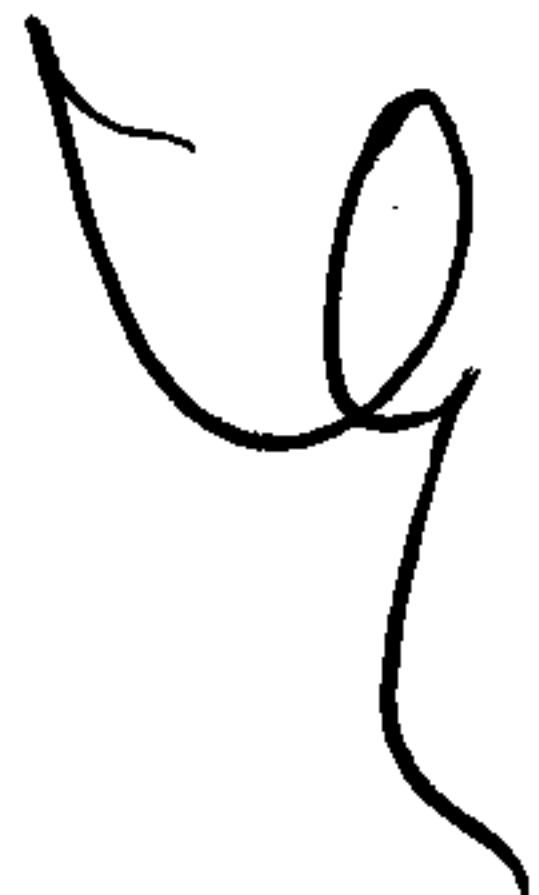
Versus

M/s. Usha Multipack Private Limited & Ors.
Survey No.164, Plot No. 1-2,
S.I.D.C. Road, Veraval (Shapar),
Tal. Kotda Sangani, Kotda Sangani,
Rajkot – 360027, Gujarat.


..... Respondents/ Corporate Debtors

Appearance:

Nitu Chaturvedi, Advocate along with Mr. Pinakin Shah and Mr. Jignesh Parikh for the Resolution Professional.
None for the Respondent.



Order delivered on 24th June, 2020



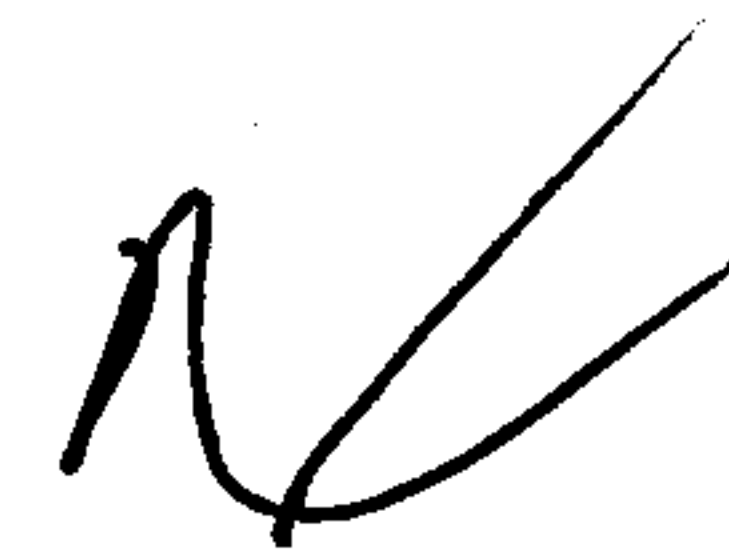
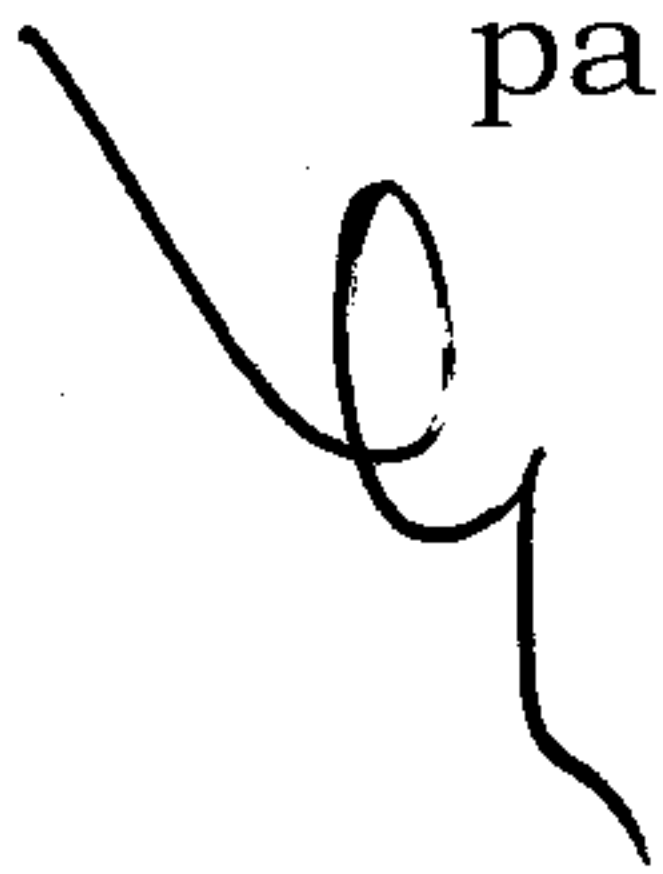
[Per Se: Shri Madan Bhalachandra Gosavi, Member (Judicial)]

1. This application under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 filed by a Resolution Professional, Mr. Pinakin Shah of the Corporate Debtor, M/s. Usha Multipack Private Limited which has been admitted in CIRP by the order dated 27.11.2018 on the ground that it has committed a default in paying financial debt of Rs.3,34,37,055/- to be paid to M/s. Siemens Financial Services Pvt. Ltd.
2. The Applicant/ RP was appointed as an IRP to control the affairs of the Corporate Debtor. He collected books of accounts, he made before the announcement of the admission of the Corporate Debtor in CIRP. He called upon its creditors to submit their claims against the Corporate Debtor with the proof(s).
3. It is seen from the record that except original application/ financial creditor, the Corporate Debtor does not have any Operational Creditor(s). The IRP constituted a Committee of Creditors ("CoC") of one Financial Creditor having 100% voting rights. First CoC meeting was held on 12.03.2019. His appointment as an RP had been confirmed. He prepared information memoranda on the basis of the valuation of the assets of the Corporate Debtor and the debts payable by it.
4. On 23.02.2019, the RP published notice in "Business Standard" and "Jay Hind" (local newspaper) calling the



prospective applicants to put before expression of interest and resolution plan. Meantime, the Gujarat Tax Department submitted its claim of Rs.8,03,881/- (Rupees Eight Crore Three Lakh Eight Hundred Eighty-One only). The RP had filed the application under Section 19(2) of the I.B. Code, 2016 alleging their non-cooperation of the suspended directors of the Corporate Debtor. This Adjudicating Authority disposed of their claim directing the suspended director / promoters of the Corporate Debtor to cooperate the RP in successful completing of CIRP in timely manner.

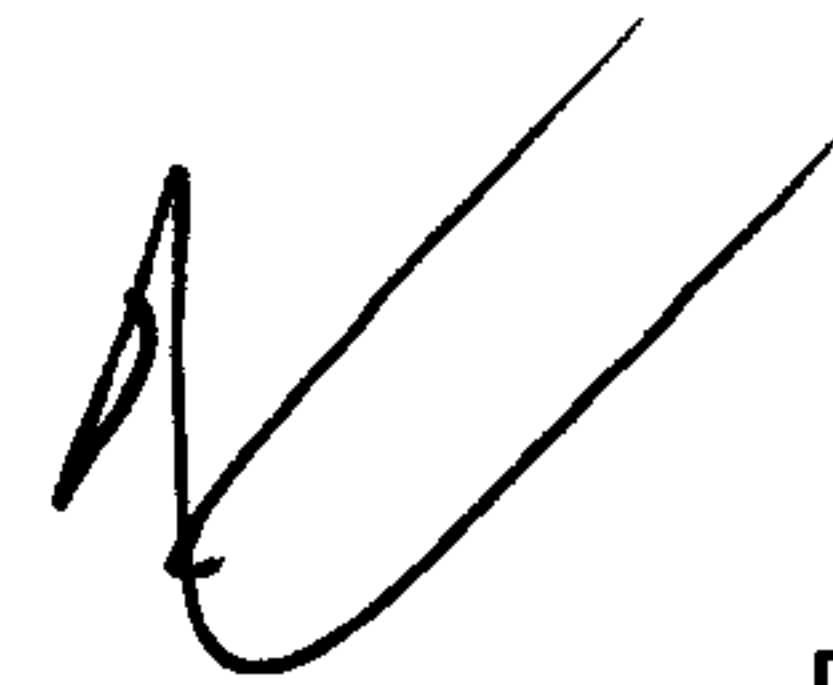
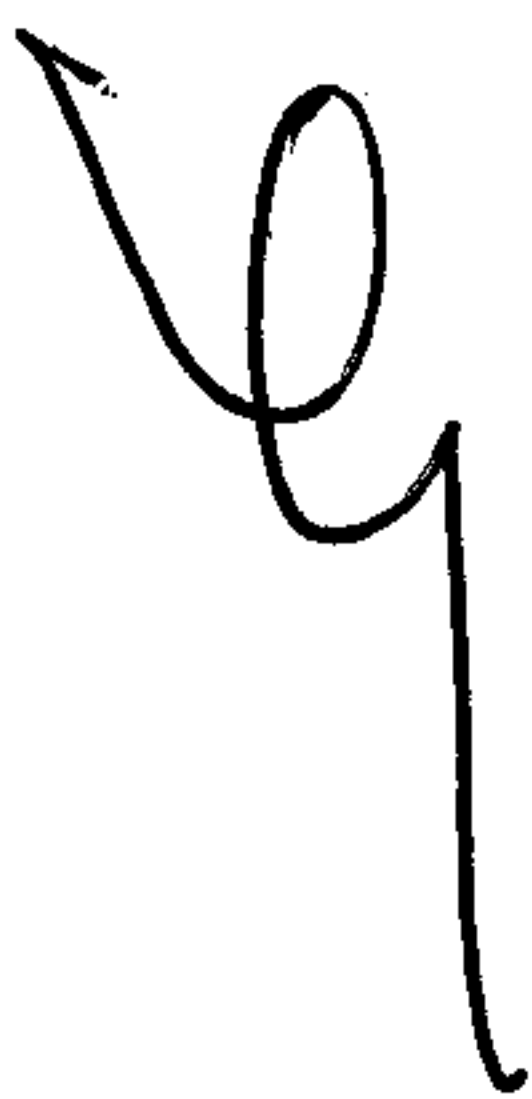
5. The CIRP period of 180 days was completed on 16.08.2018. The RP filed the application under Section 12 of the I.B. Code for extension of the CIRP period for further 90 days. It was allowed. However, during the CIRP period, the RP and the CoC did not receive any resolution plan for the Corporate Debtor. The CoC in its 5th meeting on 14.11.2019 passed resolution with 100% voting, recommending this Adjudicating Authority to pass order of liquidation of the Corporate Debtor. Hence, this application.
6. We have gone through the record of proceedings. It is seen that during the CIRP period of 270 days, the RP and the CoC did not received any resolution plan to resolve the Insolvency of the Corporate Debtor. Accordingly, the CoC passed resolution to liquidate the Corporate Debtor. In such situation, this Adjudicating Authority left with no option to pass the order of liquidation of the Corporate Debtor.




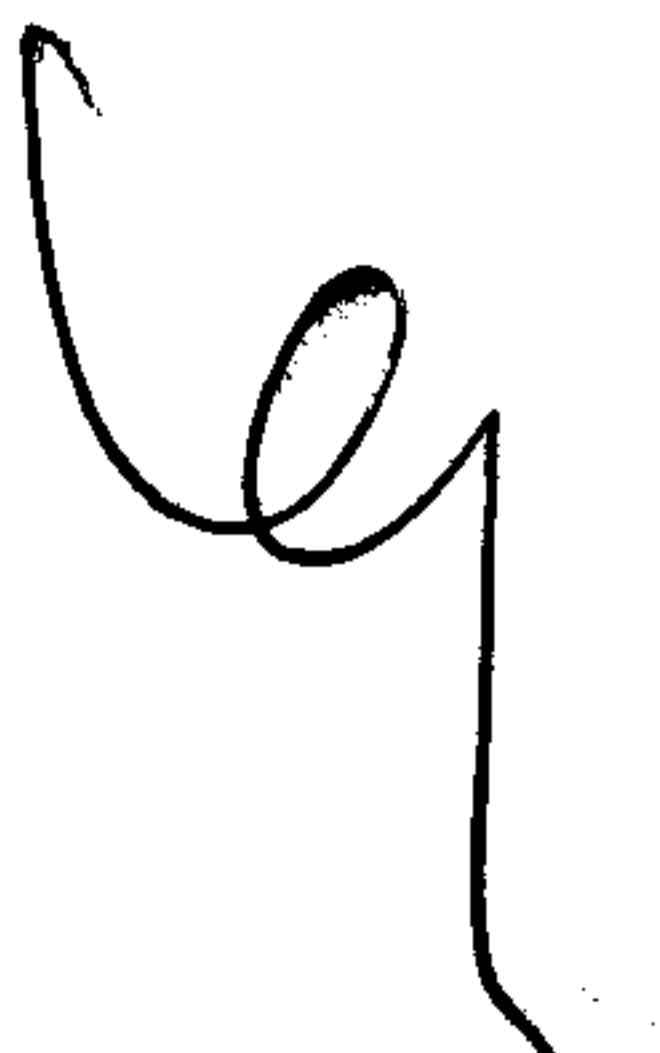
Accordingly, the Corporate Debtor stands liquidated with effect from the date of this order, which is as under.

ORDER

7. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, Mr. Pinakin Shah (Registration No. IBBI/IPA-002/IP-00106/2017-2018/10248) **is hereby appointed as a Liquidator** of the Corporate Debtor.
8. 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.
9. 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.
10. 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.



11. 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.
12. 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.
13. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.
14. 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.
15. This liquidation order shall be a deemed to be notice of discharge to the officers, employees and workmen of

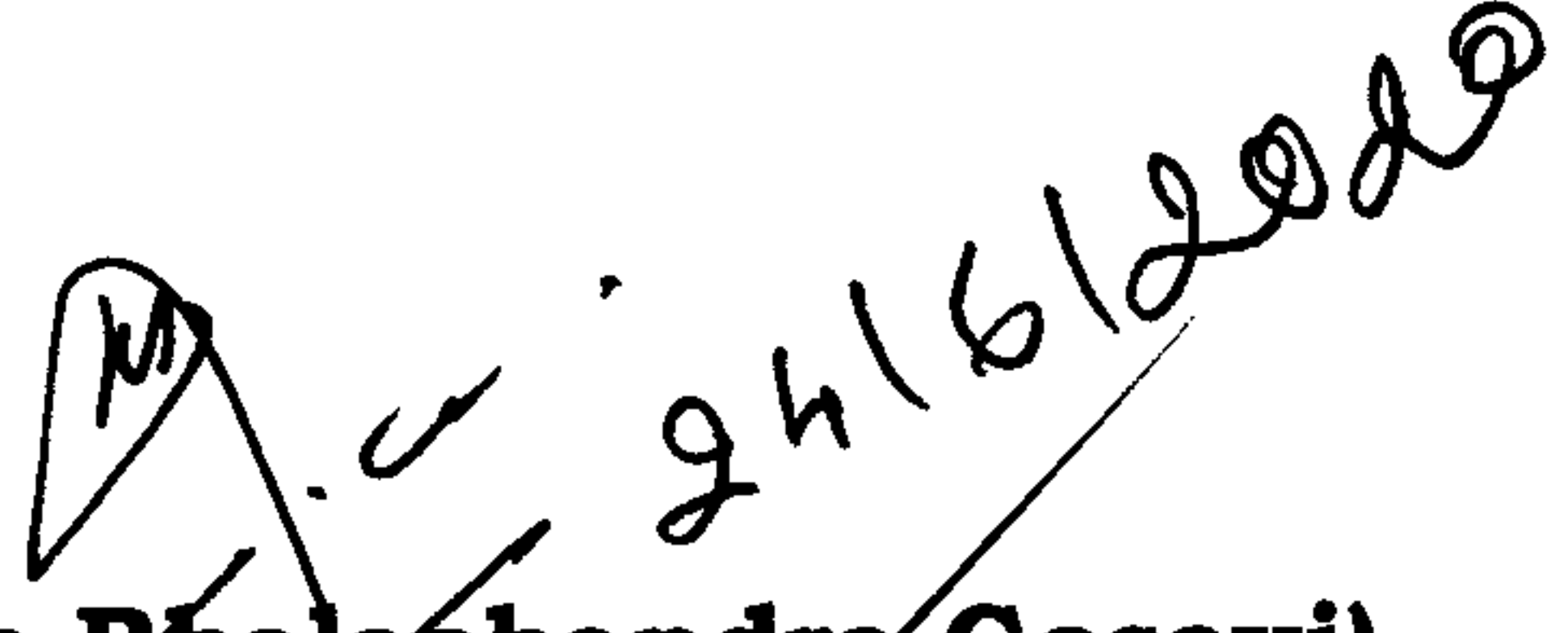


Page 5 of 6

the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

16. The Moratorium declared vide order dated 06.02.2019 on CP(IB) No.295/7/NCLT/AHM/2018, henceforth cease to exist.
17. The present I.A. No. 795 of 2019 is allowed directing the appointed Liquidator to initiate liquidation process as envisaged under Chapter - III of the Code by following the liquidation process given in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.
18. Copy of this order be sent to the Registrar of Companies, Gujarat, Ahmedabad within 07 days for information and necessary action.
19. Accordingly the present I.A. No.795 of 2019 is allowed and stands disposed of.


(Virendra Kumar Gupta)
Adjudicating Authority &
Member (Technical)


(Madan Bhalachandra Gosavi)
Adjudicating Authority &
Member (Judicial)

AT