

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

IA/146(AHM)2021 in CP(IB) 593 of 2018

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

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE THE AHMEDABAD BENCH OF THE  
NATIONAL COMPANY LAW TRIBUNAL ON 05.04.2021

Name of the Company:

Atul Mittal RP of Avadh Fibers Pvt Ltd  
V/s  
Suspended Directors of Corporate Debtor  
Girdharlal Gorabhai Vekariya & Ors

Section:

33(1) & 33(2) & 34(1) IBC

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

  
(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)

  
(MADAN B. GOSAVI)  
MEMBER (JUDICIAL)

Dated this the 5<sup>th</sup> day of April, 2021.

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

**I.A. No. 146 of 2021  
IN  
CP(IB) No. 593/7/NCLT/AHM/2018**

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

**Through:**

**Mr. Atul Mittal**

Resolution Professional for  
M/s. Avadh Fibers Private Limited  
Having address at:  
174, Balco Apartments, Plot No. 58,  
IP Extension, Delhi-110092

**....Applicant/RP**

**Versus**

**Suspended Board of Directors of Corporate Debtor**

- 1. Mr. Girdharlal Gorabhai Vekaria**  
Survey No. 83/P/1 & 83/P/2,  
Samdhiyala Samuda, Alkot Highway,  
Mota Dadva, Taluka-Gondal Road,  
District Rajkot, Gujarat.
- 2. Mr. Amit Rameshbhai Vekaria**  
Survey No. 83/P/1 & 83/P/2.,  
Samdhiyala Samuda, Alkot Highway,  
Mota Dadva, Taluka-Gondal Road,  
District Rajkot, Gujarat.

**....Respondents**

**In The Matter Of:**

**Omkara Assets Reconstruction Pvt Ltd**  
C/515, Kanakia Zillion,  
Junction of L.B.S.Road & CST  
Road, B.K.C. Annexe, Near Equinox,  
Kurla(West), Mumbai-400070

**....Financial Creditor**



**Versus**

**M/s Avadh Fibers Private Limited**

Street No. 9, B/s Piyush Pendawala,  
Kedarnath Society, Kothariya Road,  
Rajkot

....Corporate Debtor

**Order Reserved on: 23<sup>rd</sup> March, 2021**  
**Order Pronounced on: 5<sup>th</sup> April, 2021**

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

**Appearance:**

Learned Counsel Mr. Ketan M Parikh along with learned counsel Mr. Kuldeep K Adesara appeared for the Applicant/RP.  
Learned Counsel Mr. Raju Kothari appeared for the COC.  
Resolution Professional Mr. Atul Mittal 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 Avadh Fibers 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 4<sup>th</sup> March, 2020 in CP(IB) No.

593/7/NCLT/AHM/2018 and appointed Mr. Atul Mittal as "IRP".

- II. The IRP has 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. **'Financial Express (Gujarati)'** on 02.06.2020 and **'Financial Express (English)'** on 03.06.2020. Last date for submission of claims was 14.06.2020.
- III. Pursuant to the publication Form A, the applicant has received claim from only one creditor i.e M/s Omkara Asset Reconstruction Private Limited. Since, there was no claim received from any Financial Creditor, workers, employee or from any Financial Creditor other than the one Financial Creditor i.e. the applicant of main company petition.
- IV. In the second COC meeting it was decided to publish Invitation for Expression of Interest in Form-G, which was published on 07.08.2020 in two daily newspapers namely **"Indian Express"** in English language and **"Gujarat Samachar"** in Gujarati language. The Third COC meeting was held on 26.08.2020 and it was resolved to republish form G on 28.08.2020 and last date for submission of EOI was 12.09.2020. The Fourth COC meeting was held on 07.10.2020, it was resolved to extend the date of

submission of EOI up to 17.10.2020, it was decided not to republish Form G in the newspaper. Further, COC resolved to extended CIRP period by 90 days beyond 180 days as the statutory CIRP period of 180 days of the Corporate Debtor gets completed on 07.11.2020 after considering the exclusion of 68 days i.e. from 25.03.2020 to 31.05.2020 of the period of lockdown. This Adjudicating Authority had extended the CIRP period by 90 days vide order dated 14.12.2020 in IA No. 825/2020. Even after, multiple extension of time for submission of EOI no concrete proposal has come.

V. Since, no viable resolution plan was received, COC in its seventh 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, 2016.

3. Learned Counsel for the Applicant appeared and narrated these basic facts. In addition to this, he drew our attention to the required resolutions passed by the CoC in terms of provisions of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Considering to the facts of the case, we are of the view that liquidation is the only option. The CoC has also held so. The resolution required in terms of provisions of Regulation 39B, 39C & 39D of CIRP Regulations, 2016 and r.w. Regulation 4 of Insolvency and Bankruptcy Board of India

(Liquidation Process) Regulations, 2016 have been considered by COC. Hence, COC resolved to sell the Corporate Debtor as a going concern. The required resolutions have been passed and compliance report in Form-H has also been filed. Accordingly, we hold that the Corporate Debtor needs to be liquidated and thus we pass following order:

**ORDER**

1. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, **Mr. Atul Mittal** (**Registration No. IBBI/IPA-001/IP-P00439/2017-18/10762**) residing at 174, Balco Apartments, Plot No. 58 I.P Extension, Delhi-1100092, is hereby appointed as a '**Liquidator**' of the Company **M/s. Avadh Fibers Private Limited** which has been duly approved by CoC in its 7<sup>th</sup> meeting dated 29<sup>th</sup> December, 2020.
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 04.03.2020 in C.P. (I.B.) No.593/7/NCLT/AHM/2018, henceforth, ceases to exist.
11. The present I.A/146(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 Financial 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. 146(AHM) 2021 is allowed and stands disposed of.

*Virender*

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

*Madan B Gosavi*

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

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