BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IA/4930/PB/2020 In (IB)-1689(PB)/2019

CORAM: SHRI B.S.V PRAKASH KUMAR, HON'BLE ACTG. PRESIDENT
SHRI HEMANT KUMAR SARANGI, HON'BLE MEMBER (TECHNICAL)

IN THE MATTER OF

Modland Wears Pvt. Ltd.

...Applicant/Petitioner

Vs.

Annies Apparel Pvt. Ltd.

...Respondent

And

IN THE MATTER OF

Mr. Rajeev Bajaj, Resolution Professional
(RP of Annies Apparel Pvt. Ltd.)

.... Applicant

CORRIGENDUM

In exercise of powers under Rule 154 of the National Company Law Tribunal Rules, 2016, the Order Heard and dictated in open court on 23.02.2021 is rectified as under: -

1. At Page 1, **"Order delivered on 23.02.2021"** shall be read as **"Order delivered on 15.03.2021"**.

— sd —

(B.S.V PRAKASH KUMAR)
ACTNG. PRESIDENT

— sd —

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

DATED THIS THE 18th DAY OF MARCH, 2020

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 102
(IB)-1689(PB)/2019

IN THE MATTER OF:

Modland Wears Pvt Ltd ... Applicant/Petitioner
Vs
Annies Apparel Pvt Ltd. ... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016, CIRP.

Order delivered on 23.02.2021

CORAM:
SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Ajay K. Jain Mr. Atanu Mukherjee Advs in IA No. 3023 of 2020.
For the RP : Mr. Rajiv Bajaj, Advocate
Mr. Vinod Chaurasia in IA 4930/2020

ORDER

At request of the RP Counsel, IA-495/2020 is hereby **dismissed as withdrawn**.

In IA2021/2020, Report filed is taken on record. Accordingly, IA2021/2020 is hereby **disposed of**.

At request of the Applicant Counsel, IA5439/2020 is hereby **dismissed as withdrawn** with liberty.

In IA3023/2020, the Respondents who have not filed their replies till date are hereby directed to file their replies within 10 days hereof.

List IA3023/2020 for hearing on **16.03.2021**.

-Sd-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

-Sd-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

23.02.2021

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

IA - 4930/PB/2020

In

Company Petition No. (IB)-1689(PB)/2019

Order under Section 33 of Insolvency & Bankruptcy Code, 2016

IN THE MATTER OF:

Mr. Rajiv Bajaj, Resolution Professional ... Applicant
Annies Apparel Pvt Ltd.(Corporate Debtor)

And IN THE MATTER OF:

Modland Wears Pvt Ltd ... Applicant/Petitioner
Vs
Annies Apparel Pvt Ltd. ... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016, CIRP.

Order delivered on 23.02.2021

CORAM:
SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Ajay K. Jain Mr. Atanu Mukherjee Advs in IA No. 3023 of 2020.
For the RP : Mr. Rajiv Bajaj, Advocate
Mr. Vinod Chaurasia in IA 4930/2020

ORDER

AS PER: B.S.V. PRAKASH KUMAR, ACTG. PRESIDENT

Heard and dictated in open court

IA-4930/PB/2020:-

It is a liquidation application filed by the RP the corporate debtor (Annies Apparel Privet Limited) on the ground that CoC during CIRP failed to approve the Resolution Plan, failed to seek extension and also failed to propose for liquidation of the company in 7th CoC meeting held on 30.10.2020, for the CIRP period of 270 days being over by 08.11.2020, the RP is constrained to file this application seeking liquidation order as contemplated u/s. 33 (1) Clause (a) of IBC.

2. This case was admitted on 03.12.2019 on Section-7 Petition moved by one Modland Wears Private Limited, for there being only one Financial Creditor making claim against the debtor company, CoC was constituted with this Sole Creditor. Later, when another Creditor namely Religare Finvest Limited has filed a claim application claiming an amount of ₹137.47Crore, upon careful consideration, the RP reconstituted the CoC with 72.94% of voting power to Religare Finvest Limited and the remaining 27.06% to Modland Wears Private Limited. Upon valuation of the assets of the company, the liquidation value of the company has been determined as ₹23.47Crore. In 4rd CoC meeting dated 11.06.2020, the CoC decided to file Sec. 66 Application against various Respondents as shown in IA-3023/2020. In 5th CoC meeting held on 31.07.2020, it is decided to file an exclusion application for exclusion of 71 days from the CIRP period and the same was ordered on 27.08.2020. In total including 71 days of exclusion granted to CIRP period, this period has expired on 08.11.2020.

3. The RP has stated that this company has no fixed assets, except loans and advances amounting to ₹78.91Crore. He says that he prepared invitation for Expression of Interest (Form G), and when it was placed before the CoC in 6th CoC meeting held on 05.10.2020, these two CoC members neither decided to examine two Expression of Interests that came before the CoC members, nor sought an extension of CIRP period, because CIRP period would expire within 10 days from the date of 6th CoC meeting. Nor even decided to propose for liquidation of the company. The same thing was reiterated in 7th CoC meeting held on 30.10.2020. Ever since, for there was no further movement from the CoC members either seeking extension or taking any call with regard to further course of action in the CIRP, the RP herein was constrained to file this application after expiry of 270 days i.e. on 08.11.2020.

4. In the liquidation application filed by the RP, the RP has categorically mentioned that the Corporate Debtor is a defunct company and not a going concern, no business module is in existence, no revenue since 2018, no cash flow, the company surrendered GST Registration Certificate dated 30.08.2018, no employees in the Corporate Debtor, no participation by Suspended Directors in the CIRP proceedings, no tangible assets to be realized, no resolution plan received till the date CIRP continued.

5. In the backdrop of these facts, it appears the RP has no other option except to file application for liquidation, if the CoC constitution is seen, it is clear that Religare Finvest Limited has voting share of 72.94%. It could have taken any decision it wants because it has a voting share more than the requisite majority to pass a resolution but it is surprising that this Financial Creditor has not taken any decision.

6. The RP has categorically mentioned that these two CoC members were making allegations against each other stating that other member is related party to the Corporate Debtor. However, the CoC members having consciously not taken a decision within the time frame given, there is no point in remain waiting with regard to passing liquidation order. Moreover, since the RP has made a categorical statement that there is no business in the company, no assets in the company, GST Registration Certificate was also surrendered and there is no business module in this company, it is a fit case to pass liquidation order. In view thereof, we hereby ordered for liquidation of the company with the directions as follows:-

a) This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the chapter by issuing a public notice stating that the Corporate Debtor is in liquidation with a direction to the liquidator to send this order to ROC with which this company has been registered.

b) The Resolution Professional viz. Mr. Rajiv Bajaj is hereby appointed to act as Liquidator for the purpose of liquidation of the corporate debtor, therefore, all powers of the board of directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to the liquidation as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

c) Since this liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.

d) This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

7. The Registry is hereby directed to immediately communicate this order to the Liquidator, the Corporate Debtor and the IBBI & concern ROC by way of E-Mail.

8. Accordingly, this application stands disposed of.

-Sd-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

-Sd-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

23.02.2021
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