

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA/171/IB/2020 in IBA/579/2019 filed
under Sections 33 (1)(a) of the
Insolvency and Bankruptcy Code,
2016 read with Rule 11 of the NCLT
Rules, 2016

In the matter of **M/s. Floram Shoes (India) Private Limited.**

Mr. Amier Hamsa Ali Abbas Rawther, RP

Resolution Professional

M/s. Floram Shoes (India) Private Limited

No. R094-SBIOA Unity Enclave, Mambakkam P.O

Near Sivan Temple, Chennai-600127

... Applicant/ Resolution Professional

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

For Applicant/RP

: *Ms. Jayanthi K. Shah, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 27.01.2021

It is an application filed under section 33(1)(a) of the
Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the
NCLT Rules, 2016, by the Resolution Professional, seeking for the
liquidation of the Corporate Debtor.



IA/171/IB/2020 in IBA/579/2019

In the matter of M/s. Floram Shoes (India) Private Limited

2. From the averments made in the Application, it is evident that the CIRP of the Corporate Debtor was initiated on 31.07.2019 and the Applicant herein was appointed as IRP. The IRP issued public announcement, calling for the claims from the Creditors of the Corporate Debtor on 07.08.2019. The first meeting of COC was held on 03.09.2019. The Applicant was appointed as Resolution Professional on 05.11.2019. Pursuant thereto, the applicant appointed two IBBI Registered Valuers on 27.09.2019 for valuation of the assets of the Corporate Debtor and the average values of the assets as per two valuation reports are as under:

S. No	Particulars	Valuation Amount
1	Fair Value	Rs.10,11,61,500/-
2	Liquidation Value	Rs.7,84,46,000/-

3. It is also evident from the averments made in the Application that in the meeting held on 19.11.2019, the CoC approved the Information Memorandum and also approved the Expression of Interest which was published on 30.11.2019 wherein one Mr. Sankarathanu Pillai Meghanathan proposed a Resolution Plan.



IA/171/IB/2020 in IBA/579/2019
In the matter of M/s. Floram Shoes (India) Private Limited

The CoC in its 3rd meeting held on 05.12.2019 suggested the Resolution Applicant to submit the Resolution Plan along with Earnest Money Deposit (EMD) of Rs.10 lakhs by way of Bank Guarantee.

4. It is submitted that the said Mr. Sankarathanu Pillai Meghanathan did not pursue the Resolution Plan or deposit Rs.10 lakhs towards EMD by way of Bank Guarantee. Since the only prospective Resolution Applicant, who had approached the CoC for discussion was not interested in taking this forward and further in view of the fact that there were no operations in the Company for the last two years, the COC in its commercial wisdom has decided to go for Liquidation of the Corporate Debtor.

5. It is further submitted that in the 5th CoC meeting held on 23.01.2020 it was resolved with 100% voting rights to liquidate the Corporate Debtor under Section 33(1)(a) of IBC, 2016 and the

Following resolution was passed:



IA/171/IB/2020 in IBA/579/2019

In the matter of M/s. Floram Shoes (India) Private Limited

"Resolved that an Application for Liquidation of the Corporate Debtor to be filed to the Hon'ble NCLT, Chennai under Section 33(1)(a) of IBC, 2016, which is as follows:

- a. Where the Adjudicating Authority:
- b. Before the expiry of the Insolvency Resolution Process period or the maximum period permitted for completion of the corporate insolvency resolution process under Section 12 or the fast track corporate insolvency process under Section 56, as the case may be, does not receive a resolution plan under sub-section (6) of Section 30 of IBC, 2016 (Liquidation Process) Regulations, 2016 and decided not to recommend for sale of corporate debtor as a going concern under clause (e) of regulation 32 of the IBBI (Liquidation Process) Regulations, 2016 or sale of the business of the Corporate Debtor as a going concern under clause(f) thereof."

"And also resolved that the Resolution Professional Mr. Amier Hamsa Ali Abbas Rawther, IBBI/IPA-001/IP-P01727/2019-20/12620 and Authorization for Assignment (AFA) from IIPICAI No.AA1/12620/01/251220/100427 dated 26.12.2019 be hereby appointed as a Liquidator under Section 34(1) of IBC, 2016 until the conclusion of the liquidation of the Corporate Debtor".



IA/171/IB/2020 in IBA/579/2019

In the matter of M/s. Floram Shoes (India) Private Limited

6. It is stated that the written consent letter dated 20.01.2020 by Resolution Professional to act as Liquidator has been filed along with Form-H.

7. Upon considering the facts placed before this Tribunal, it is seen that the CoC in its 5th meeting has decided to liquidate the Corporate Debtor and passed a Resolution to that effect and also in view of the fact that there is no objection being raised from any other persons, this Adjudicating Authority is left with no other option but to order for the liquidation of the Corporate Debtor.

8. In the circumstances, Mr. Amier Hamsa Ali Abbas Rawther, IBBI/IPA-001/IP-P01727/2019-20/12620, is appointed as the liquidator of the Corporate Debtor, to carry out the liquidation process subject to the following terms of the directions:

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into



IA/171/IB/2020 in IBA/579/2019

In the matter of M/s. Floram Shoes (India) Private Limited

consideration of Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge;

- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority;
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation;
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016;
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section -



IA/171/IB/2020 in IBA/579/2019

In the matter of M/s. Floram Shoes (India) Private Limited

35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation;

i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority; and

j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation;

9. The application IA/171/IB/2020 stands disposed of with the aforesaid directions.

-sd-
ANIL KUMAR B)
MEMBER (TECHNICAL)



Certified to be True Copy

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

DEPUTY REGISTRAR 9/2/2021
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR,
29, RAJAJI SALAI, CHENNAI-600001

IA/171/IB/2020 in IBA/579/2019

In the matter of M/s. Floram Shoes (India) Private Limited