

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH

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IA 628 of 2019 in C.P. (I.B) No. 571/NCLT/AHM/2018

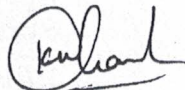
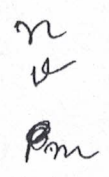
Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 27.11.2019

Name of the Company: Vinodkumar Surendralal Shah RP For Shree
Padmavati Sortex Pvt Ltd
V/s

Prakashkumar V Shah & Ors

Section of the Companies Act : Section 33(2),34(1) of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Khyati Punjabi For A.R. Gupta & Associates	Adv.	Suspended Management Director No. 1	
2.	Nipun Singhvi Vishal J Dave Mayur Jugtawat	Adv.	RP	

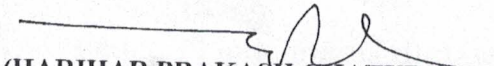
ORDER

The Parties are represented through their respective Counsel(s).

Heard the arguments of the Applicant/Resolution Professional.

The IA No. 628 of 2019 in CP(IB) 571 of 2018 is allowed and stands disposed of accordingly.

The detailed order is recorded vide separate sheet.


(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)

Dated this the 27th day of November, 2019.

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

IA 628 of 2019

IN

CP/IB) No. 571/7/NCLT/AHM/2018

[An Application by the Resolution Professional of M/s. Shree Padmavati Sortex Pvt. Ltd. under Section 33(2) & 34(1) of Insolvency & Bankruptcy Code, 2016]

In the matter of:

Vinodkumar Surendralal Shah
Resolution Professional of:
Shree Padmavati Sortex Pvt. Ltd.

having address at:

206/1, Pramukh Cyprus,
Opp. Aashka Hospital.
Sahpur Sargasan Road,
Gandhinagar-382421.

- Applicant/RP

Versus

1. Shree Padmavati Sortex Pvt.Ltd.
126/1/Q AT & post
Lodariyal Bavla Sanand Road,
Bavla, Ahmedabad-Gujarat-382230.
2. Bank of Baroda
(formerly known as Dena Bank)
Sole Financial Creditor
Dena Corporate Centre
C-10, G Block, Bandra Kurla Complex,
Bandra(East), Mumbai- 400051
Branch at, 108109110 Silver Plaza Complex,
Station Road, Bavla, Dist Ahmedabad.
3. Prakash Kumar Vardhman Bhai Shah
Suspended Director
3, Krishna Nagar Society
Opp. thakkarnagar Society,
Nr. Swaminarayan Mandir,
Bavla Dholka Road,
Bavla- Ahmedabad-382220.
4. Dasrath Dhanjibhai Prajapati
Suspended Director
G-32, Chitrakut Dham Society,
Nr. Hirabhai Tower, Uttam Nagar,



[Handwritten signature]

Maninagar, Ahmedabad- 380008.

5. Dhanjibhai Umaji Prajapati
Suspended Director
G-32, Chitrakut Dham Society,
Nr. Hirabhai Tower, Uttam Nagar,
Maninagar, Ahmedabad- 380008.
6. Mahendra Dhanjibhai Prajapati
Suspended Director,
G-82, Chitrakut Dham Society,
Nr. Hirabhai Tower, Uttam Nagar,
Maninagar, Ahmedabad-380008.

-Respondents

Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)

Appearance:

Learned Counsels Mr. Nipun Singhvi & Mr. Vishal Dave a.w. Counsel Mr. Mayur Jugtawat are present for the Resolution Professional.

Learned Counsel Ms. Khyati Punjabi for M/s. A. R. Gupta & Associates for the Suspended Director No.1.

Order delivered on 27th November, 2019.

ORDER

1. The Applicant RP has filed the present Interlocutory Application under Section 33(1), 33(2) and 34(1) of the Insolvency and Bankruptcy Code, seeking for liquidation of the Corporate Debtor Company, namely, Shri Padmavati Sortex Pvt. Ltd.
2. As per the Applicant RP, the Committee of Creditors ("CoC") in its 5th meeting held on 29.08.2019 with **100% majority** of its members has resolved for liquidation of the Corporate



Debtor Company. It is submitted that, the CoC, in its 5th meeting dated 29.08.2019 has duly reordered the reason for going to the proposed liquidation of the Corporate-Debtor, because no proposal for expression of interest (“EOI”) from a potential resolution applicant / party was received despite the paper publication was made by inviting the EOI in respect of the Corporate-Debtor-Company. It is also stated that 180 days of the period of the Corporate Insolvency Resolution Process (“CIRP”) came to be over on 25.09.2019, therefore, the CoC took a conscious decision not to seek extension of the CIRP but recommend for liquidation of the Corporate-Debtor- Company by passing necessary resolution with its 100% voting. Hence, the Applicant RP has left with no option but to proceed for liquidation of the Corporate-Debtor-Company.

3. It is further informed that the CoC in its very same meeting has also recommended the present Resolution Professional Mr. Vinodkumar Surendralal Shah to be continued and to act as a Liquidator in respect of the Corporate-Debtor-Company.

4. We heard the submission of Learned Counsel for the Applicant RP as well as the Learned Counsel appearing for the suspended management through the Director, Mr. Prakashkumar Vardhmanbhai Shah. The Learned Counsel



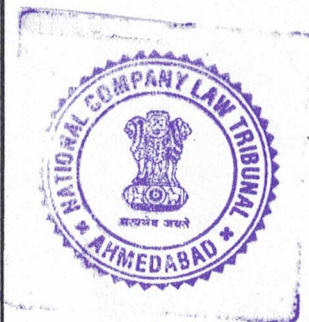
for the suspended management /Director R-3 has expressed no objection so far as liquidation of the Corporate-Debtor-Company is concerned. We have gone through the contents of the present application. It is now settled position in law, as per the decision of the Hon'ble Supreme Court of India in the matter of *Sashidhar Vs. Indian Overseas Bank and Ors. and the CoC to Essar Steel Ltd. and Ors. Vs. Union of India* that, the commercial wisdom applied by Member of the CoC to be treated as conclusive and this Adjudicating Authority is not expected to sit in appeal and to substitute its own view to the CoC. Because its jurisdiction is supervisory in nature and nor as of an Appellant Authority.

5. Therefore, the present application can be allowed in view of the resolution of the CoC for passing an appropriate order for liquidation of the company.
6. By considering the above stated factual aspects of the CIRP of the Corporate Debtor, we find that the present I.A. deserves to be allowed and an order for liquidation of the company is required to be passed. Therefore, it is allowed in terms of its prayer clause.



7. It is ordered that the Corporate Debtor Company, **M/s. Shri Padmavati Sortex Pvt. Ltd. shall go under liquidation** with following observations and directions.

- i. **Shri Vinodkumar Surendralal Shah**, RP is hereby appointed as the **Liquidator** to complete the liquidation process.
- ii. The moratorium declared in respect of the Corporate Debtor Company under Section 14(4) under Section 14(1) now shall cease to have effect from 27.11.2019, i.e. the liquidation of Corporate Debtor Company as per the proviso of Section 14(4) of the I.B. Code.
- iii. This order of liquidation issued under Section 33(7) of the I.B. Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.
- iv. Subject to provisions of Section 52, after passing of this liquidation order, no suit or other liquidation proceedings shall be instituted by or against the corporate debtor company provided that the suit or other legal proceeding may be instituted by the liquidator on behalf of the corporate debtor with the prior approval of the Adjudicating Authority.
- v. However, the provision of Sub-Section (5) of Section 30 shall be applied to legal proceeding in relation to



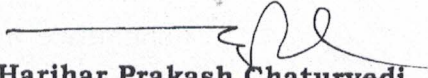
such prosecution as made notified by the Central Government in conciliation with any financial sector regulator.

- vi. The Liquidator is directed to act for the purpose of liquidation of the corporate debtor company. The personnel of the Corporate Debtor shall extend all the assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor Company.
- vii. The Liquidator shall have all the powers of the Directors, key managerial personnel and consequent thereto, the partners of the Corporate Debtor as the case may be shall seize to have effect and their powers shall be vested in the Liquidator.
- viii. The personnel of the Corporate Debtor Company under the liquidation shall extend all the assistance and cooperation to the Liquidator.
- ix. The Liquidator shall exercise its' powers and perform its duties as per Section 35 of the Insolvency and Bankruptcy Code, 2016.
- x. The fees to conduct all the liquidation proceedings shall be paid to the liquidator from the proceed of the liquidation and the said company under Section 53 and the Liquidator may charge its fees for the conduct of litigation in proportion of value of



liquidation of the said company as may be specified by the board (IBBI).

8. With the aforesaid observations, the present I.A. No. 628 of 2018 is **allowed** and stands **disposed of**.


Harihar Prakash Chaturvedi,
Adjudicating Authority
Member (Judicial)

VS/AT

