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21-06-2022

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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
BENCH-II**

IA NO. 797 OF 2021

IN

COMPANY PETITION NO.(IB)/142/(AHM)/2020

[An application filed under section 33(2) and 34(1) of the Insolvency and Bankruptcy Code,2016 for initiation of liquidation of the Corporate Debtor]

IN THE MATTER OF:

MR. AKHILKUMAR A. THAKKAR
(The Resolution Professional of
Prince Vitrified Private Limited)
Office of RP:
B-2 Sanskar Residency
Sattar Taluka Society
Navjeevan Post
Income Tax, Ashram Road
Ahmedabad 380 014

... Applicant/ Resolution Professional

Order Pronounced on: 14/06/2022



Coram:

**Dr. DEEPTI MUKESH, MEMBER (JUDICIAL)
AJAI DAS MEHROTRA, MEMBER (TECHNICAL)**

MEMO OF PARTIES

IN THE MATTER OF:

MR. AKHILKUMAR A. THAKKAR
(The Resolution Professional of
Prince Vitrified Private Limited, Corporate Debtor)
[IP Reg. No. IBBI/IPA-001/IP-P01392/2018-19/12159]
Office of RP:
B-2 Sanskar Residency
Sattar Taluka Society
Navjeevan Post
Income Tax, Ashram Road
Ahmedabad 380 014

... Applicant/ Resolution Professional

Present:

For the RP: MR. Pratik Thakkar, Advocate
For the Suspended Management: Mr. Vijay Patel, Advocate

ORDER

- 1 This is an application filed by the Resolution Professional (hereinafter referred to as "RP") under Section 33(2) and 34(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code") for passing an order of liquidation of the Corporate Debtor, M/s. Prince Vitrified Private Limited.
- 2 The facts as narrated in the application and explained by the counsel for the applicant RP are summarized hereunder :
 - (i) The Operational Creditor, M/s. New King Abrasive (Partnership Firm) had filed an application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP'), against the Corporate Debtor, M/s. Prince Vitrified Private Limited, which was



admitted vide order dated 08.03.2021 and Mr. Akhilkumar A. Thakkar was appointed as Interim Resolution Professional (hereinafter referred to as "IRP").

- (ii) The IRP under Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, made a public announcement in FORM-A on 11.03.2021.
- (iii) The IRP collated all claims submitted by the creditors pursuant to Public Announcement and accordingly constituted a Committee of Creditors (hereinafter referred to as the "COC") as per Regulation 16 of CIRP Regulations. Thereafter, the 1st COC meeting was held on 02.04.2021 which comprised of one financial creditor i.e. State Bank of India and twelve operational creditors i.e. i) New King Abrasive, ii) Fae Impex Private Limited, iii) Mahalaxmi International, iv) Employees' Provident Fund Organisation Statutory claim, v) CGST Department Statutory claim, vi) HEM Industries, vii) State Tax Officer Statutory Claim, viii) Krishna Colour Chem, ix) Digvijay Engineering & Constructions, x) Sonic Corporation, xi) Kamson Enterprise & xii) Paschim Gujarat Vij Limited have a 100% voting share. The CoC in its first meeting resolved to continue the IRP Mr. Akhilkumar A. Thakkar as Resolution Professional (RP).
- (iv) The applicant submits that the applicant had published Form G for invitation for expression of interest on 22.05.2021. However, no EOI was received. Therefore, form G was again published on 22.06.2021 and one EOI was received by the



applicant from RKG Fund – I (A scheme of RKG Trust managed by RKG Asset Management LLP).

- (v) The applicant had filed IA 574 of 2021 in CP (IB) No. 142 of 2020 for extension of CIRP period. CIRP period was extended for 90 days vide order dated 31.08.2021 and 270 days of the CIRP period is going to expire on 03.12.2021.
- (vi) Despite publishing Form G twice, for invitation of expression of interest, only one EOI was received by the COC and thereafter no resolution plan was received in the stipulated time.
- (viii) In the 8th COC meeting held on 13.10.2021, the COC approved and resolved with 100% voting, for liquidation of the corporate debtor and filing of an appropriate application. Further, COC resolved and approved the appointment of Mr. Premraj Ramratan Laddha having IP Regn. No. IBBI/IPA-001/IP-P00060/2017-2018/10138 as the liquidator of the corporate debtor. Written consent of the proposed liquidator is annexed to the application.

3. For the sake of ready reference, the relevant provision of section 33 (2) of the Code, which is applicable is reproduced hereunder:

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than 66% of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of Clause (b) of sub-Section (1).

[Explanation: for the purposes of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of Section 21



and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum].

4. The matter was notified on 30.05.2022 seeking clarification from RP with regard to the list of operational creditors reflected as CoC members. In reply, RP filed affidavit stating that, due to typographical error, in para 4 of the application, operational creditors are reflected as CoC members, whereas the CoC consisted of sole financial creditor State Bank of India.
5. Considering the submissions and documents on record, since the COC in its commercial wisdom has decided to take the Corporate Debtor into liquidation, we are of the opinion that the decision of COC should not be interfered with. The present application seeking liquidation of the Corporate Debtor M/s Prince Vitrified Private Limited, in the manner laid down in Chapter III of Part II of the Code, is allowed.
6. The CoC has proposed name of Mr. Premraj Ramratan Laddha to be appointed as the Liquidator, who has also consented to act as a Liquidator and filed his written consent, having registration no. IBBI/IPA-001/IP-P00060/2017-2018/10138, having an address at 304, Abhijit - 3, Above Pantaloon, Mithakhali-Law Garden Road, Ahmedabad 380 006. Hence we appoint Mr. Premraj Ramratan Laddha, as liquidator of corporate debtor, in terms of Section 34 (1) of the Code with the following directions:
 - a) The liquidator to issue a Public Announcement stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.



- b) The liquidator 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 and in accordance with the relevant rules and regulations.
- c) The liquidator to follow up and continue to investigate the financial affairs of the corporate debtor to determine any undervalued and preferential transactions etc.
- d) This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.
- (e) The Liquidator to submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
7. As a consequence of the application being admitted, the moratorium as envisaged under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.
8. A copy of the order shall be communicated to the applicant RP and the corporate debtor as well as to the liquidator above named. The liquidator is to be informed of his said appointment by the Registry. In addition, a copy of said order shall also be forwarded to IBBI for its records and ROC for updating the Master Data. ROC shall send a compliance report to the Registrar, NCLT.



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Ajai Das Mehrotra
Member (Technical)

Prepared by Vimal

Signature wd

Date 21-6-2022

Certified to be True Copy of the Original
[Signature]
21.6.22
Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad

(Dr. Deepti Mukesh)
Member (Judicial)

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