

**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

101.M.A. 2536/2019  
IN  
C.P.(IB)-3004(MB)/2018

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)  
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **17.11.2021**

NAME OF THE PARTIES: International Asset Reconstruction Company  
Pvt Ltd.

V/s

Ketan Ceramic PvtLtd.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Ms. Prajakta Shidhore, Resolution Professional along with her counsel Mr. TN Tripathi are present through virtual hearing.

**M.A. 2536/2019**

Heard the Resolution Professional in the above M.A. The above M.A. is filed for liquidation of the Corporate Debtor since the COC has not received any Resolution Plans within the stipulated time. The COC has fixed the fees of the liquidator in the third COC meeting held on 23<sup>rd</sup> May 2019.

Ms. Prajakta Shidhore, RP who is physically present before this Bench is ready and willing to continue as liquidator and given her consent to continue as Liquidator. The above I.A. is allowed. Detailed order will follow.

Sd/-  
CHANDRA BHAN SINGH  
Member (Technical)

Sd/-  
H.V. SUBBA RAO  
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
COURT III**

**M.A. 2536 OF 2019**

**IN**

**C.P. No. 3004 of 2018**

Under Section 33 of Insolvency & Bankruptcy Code,  
2016

Filed by

**Ms. Prajakta Madhav Shidhor**

Resolution Professional of:

Ketan Ceramics Private Limited

**...Applicant**

In the matter of

**International Asset Reconstruction Company**

**Private Limited,**

**601/602/605, 6<sup>th</sup> Floor, 215 Atrium,**

**Kanakia Spaces, Andheri Kurla Road,**

**Andheri (East), Mumbai - 400093**

**...Financial Creditor/Petitioner**

Versus

**Ketan Ceramics Private Limited,**

**Gupta House, 5<sup>th</sup> Floor, 1 R.N. Tagore Marg,**

**Civil Lines, Nagpur - 440001**

**...Corporate Debtor**

**Order delivered on: 17.11.2021**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

**Appearance:**

For the Applicant: Ms. Prajakta Madhav Shidhor

1. The above application M.A. No. 2536/2019 is filed by Resolution Professional, Ms. Prajakta Madhav Shidhor seeking liquidation of Ketan Ceramics Private Limited (hereinafter referred as “Corporate Debtor”) under Section 33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. *THAT the Corporate Debtor, Ketan Ceramics Private Limited, having Registered Office at Gupta House, 5<sup>th</sup> floor, 1 R.N. Tagore Marg, Civil Lines, Nagpur – 440001 be liquidated under the order and direction of the Hon’ble Tribunal in the manner as laid down in Chapter – III of the Insolvency and Bankruptcy Code, 2016;*
- b. *THAT leave be granted to the Applicant to act as liquidator of Corporate Debtor, Ketan Ceramics Private Limited for the purpose of liquidation with all necessary powers under the provisions of Insolvency and Bankruptcy Code 2016 and rules and regulations made thereunder;*
- c. *FOR ad-interim relief in terms of prayers (a) and (b) above; and*
- d. *FOR such further and other relief as the nature and circumstances of the case may require.*

2. The brief facts of the application are as follows:

- A. The applicant mentioned that this Tribunal vide its order dated 07.01.2019 in Company Petition No. 3004 of 2018 admitted the petition under Section 7 of the Code, filed by International Asset Reconstruction Company Private Limited (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter called as the “CIRP”) was initiated against Ketan Ceramics Private Limited, (hereinafter called as the “Corporate Debtor”). The Applicant was appointed as Interim Resolution Professional of (IRP) the Corporate Debtor by this Tribunal vide this Order dated 07.01.2019.
- B. In pursuance of the Order, a public announcement was issued in newspaper on 10.01.2019 in the Indian Express and Loksatta Newspaper.

- C. The Committee of Creditors, (hereinafter called as the “CoC”) was formed on 30.01.2019 and thereafter held their first meeting on 06.02.2019 wherein, the applicant was appointed as the Resolution Professional of the Corporate Debtor to conduct the CIRP of the Corporate Debtor in accordance with the relevant provisions of the Code.
- D. It is further submitted by the Counsel for the Applicant that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 23.03.2019 in Indian Express and Loksatta, 22.05.2019 being the last date for submission of Resolution Plan.
- E. The CoC in its 3<sup>rd</sup> meeting which was held on 23.05.2019 decided to liquidate the Corporate Debtor since no EoI was received. Therefore, the Committee of Creditors unanimously approved initiation of liquidation of the Corporate Debtor by passing the resolution and directed the Resolution Professional to file interlocutory application and seek further directions from this Tribunal without waiting for lapse of 180 days. In the same meeting of, CoC decided to appoint the Resolution Professional as Liquidator and the consent for the same is also been given by the Resolution Professional. Thereafter, the Committee decided to put the following resolution, the relevant extract of the resolution is reproduced herein below for ready reference:-

*“The member of Committee of Creditors (CoC) representing 100% of the voting share in the CoC unanimously agreed and approved the filing of application with NCLT for liquidation of the Corporate Debtor and further IARC also agreed and approved the payment of fees amounting to Rs. 1,00,000/- per month to the liquidator during the liquidation process with a cap of Rs. 6,00,000/- in case liquidation process stretching beyond six months and the payment to be shared by the members of the CoC as per the percentage of share in the Debt. Akola Bank will obtain approval from their Board and will communicate the*

*same by email by end of this month. It was also agreed to file application with NCLT for liquidation upon receipt of confirmation from Akola Bank.”*

3. Heard the arguments of the counsel appearing for the Resolution Professional and perused the record. It is observed from the minutes of the 3<sup>rd</sup> CoC meeting held on 23.05.2019 that the CoC has, with 100% majority, decided to Liquidate the Corporate Debtor as no resolution plan was received by the CoC. The Applicant/ Resolution Professional Ms. Prajakta Madhav Shidhor has agreed to act as liquidator to carry on the process of Liquidation and given her consent to act as Liquidator. This bench relying on the settled principle of law regarding the Commercial Wisdom of the CoC, hereby allow this Miscellaneous Application Number 2536 of 2019 and passed the following:

#### **ORDER**

1. The above M.A. No. 2536/2019 is allowed and the Corporate Debtor Ketan Ceramics Private Limited is ordered to be liquidated.
  - a. **Ms. Prajakta Madhav Shidhor**, having Registration No. IBBI/IPA-001/IP-P00817/2017-2018/11402 and residing at: Uma Shankar, Ground Floor, Plot No. 23, Tarun Bharat Society, Chakala, Andheri (E), Mumbai – 400099, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
  - b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
  - c. The members of CoC also agreed for payment of Rs. 1,00,000/- per month as fees to the Liquidator with a cap of Rs. 6,00,000/- in the event of liquidation process stretching beyond six months with IARC paying their proportionate share of fees as and when due and Akola

Bank paying their proportionate share of fees from the sale proceeds of assets charged to them on sale of the same.

- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- e. The Liquidator appointed under section 34(1) of the Code. Will have all powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- f. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- g. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- i. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

- j. This liquidation order shall be deemed to be a 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.

With the above directions, this application i.e. M.A. No. 2536 of 2019 is hereby allowed and disposed of.

**Sd/-**

**CHANDRA BHAN SINGH  
MEMBER (TECHNICAL)**

**Sd/-**

**H.V. SUBBA RAO  
MEMBER (JUDICIAL)**