

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**


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**PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL
HON'BLE SHRI NARENDER KUMAR BHOLA- MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 09.01.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 284/2019 in CP(IB) No. 497/7/HDB/2018
NAME OF THE COMPANY	AtlantiSpinning and Weaving Mills Ltd
NAME OF THE PETITIONER(S)	International Asset Reconstruction Company Pvt Ltd
NAME OF THE RESPONDENT(S)	AtlantiSpinning and Weaving Mills Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):


Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
Cp. Bhuyesh for DA. 283, 700 & 896	Advocate	99666 2 2805	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Order is passed in IA No.284 of 2019 vide separate order.


Member (T)
Karim


Member (J)

**NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD, BENCH - I**

I. A. 284 of 2019

IN

C.P (IB) No. 497/7/HDB/2018

In the matter of

**M/s. ATLANTIC SPINNING AND WEAVING MILLS
LIMITED**

Mr. Shaik Gouse,
Resolution Professional,
Registration No: IBBI/IPA-002/IP-N00458/2017-18/11326
H.No.8-2-603/1/10, Second Floor
Krishnapuram, Road No.10
Banjara Hills, Hyderabad -500 034

..... Applicant /
Resolution Professional

Vs.

M/s. Atlantic Spinning and Weaving Mills Limited
CIN: U17110TG1986PLC006348
05, Cheney Trade Centre, Parklane,
Secunderabad, Telangana - 500003

..... Respondent -1/
Corporate Debtor

M/s. International Asset Reconstruction Company Private Limited
709, 7th Floor, Ansal Bhawan,
16, Kasturba Gandhi Marg,
New Delhi - 110001

..... Respondent -2/ Financial Creditor

Date of order: 09.01.2020

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narender Kumar Bhola, Member (Technical)

Appearance:

For Applicant : Shri Shaik Gouse, Resolution Professional

Heard on: 03.01.2020

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the Financial Creditors. The Resolution Professional after verifying and collating the claims constituted the Committee of Creditors (the Committee / CoC) and submitted his report to the Adjudicating Authority on 26 October 2018.

- 2.3 In the 1st CoC meeting held on 05 November 2018, the IRP was confirmed / appointed as Resolution Professional (RP).
- 2.4 In the 2nd CoC meeting on 29 November 2018 two more financial creditors who have submitted their claims after the 1st CoC Meeting were added to CoC, making the total number of members of CoC as Six.
- 2.5 In the 3rd CoC meeting held on 27 December 2018, the CoC approved issuance of expression of interest in form G and accordingly Resolution Professional made paper advertisement on 31 December, 2018 in Business Standard, English in all editions of Telangana, Navatelangana, Telugu in all editions of Telangana, The Navhind Times, English in all editions of Goa, Navaprabha, Marathi in all editions of Goa, and Deccan Herald, English, in all editions of Mysore, Prajavani, Kannada in all editions of Mysore.
- 2.6 In the 4th CoC meeting held on 31 January 2019, the CoC deliberated on the expression of interests received from prospective Resolution Applicants and selected **Garg Industries** to submit resolution plan. Subsequently, Garg Industries submitted the Resolution Plan on 5th March 2019. It is stated by the Resolution Professional he sought for additional information / clarification and documents in respect to the Resolution Plan but Resolution Applicant on several occasions sought time for providing the same.
- 2.7 In the 5th CoC meeting held on 11 March 2019 CoC deliberated on the Resolution Plan and other requirements considering the addition of assets held by M/s. Sansar that would be forming part of the Resolution Plan. However, the CoC felt that in the absence of books of accounts of Corporate Debtor

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for the last 13 years, and Non-availability of directors or management of the Corporate Debtor and in the absence of substantial evidence of receipt of any money received or money repaid, if any, by the CD, the claim submitted by Sansar was rejected. It is further submitted that the Resolution Professional apprised the Committee about taking possession of the following properties pertaining to the Corporate Debtor which are under possession of M/s. Sansar and on account of such possession, the asset base of the CD would be enhanced. The details of the properties mentioned to the committee as per the claim form submitted by Sansar are as under:

- (i) Piece and Parcel of land to the extent of 11 Acres and 19 Guntas bearing Sy.No.43, 44, 590 & 600(Part) in Kesare Village, Kasaba, Hobli, Mysore Taluka.
- (ii) Piece and Parcel of land to the extent of 5 Acres and 24 Guntas bearing Sy.No.601, 602 & 603 in Kesare Village, Kasaba, Hobli, Mysore Taluka

2.8 In its 6th meeting held on 25 March 2019, CoC deliberated on various intricacies of the Resolution Plan including the eligibility of the Resolution Applicant as per Section 29A of IBC with the representative of Resolution applicant and requested for some more documents and information to get clarity and arrive at the eligibility of Resolution Applicant under Section 29A.

2.9 It is stated, owing to paucity of time, representative of prospective Resolution Applicant was directed to attend the 6th CoC meeting, to clarify certain issues and after due deliberations, ultimately CoC came to a conclusion that the amount offered to the creditors as part of the plan is too low, both in comparison to the admitted claims as well as in comparison to the potential value of the assets of the company and further Resolution Applicant failed to show any evidence of its financial credibility.

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- 2.10** For considering the compliance requirement of the only Resolution Plan received, the Resolution Professional convened the 7th CoC meeting on 29 March 2019.
- 2.11** The Resolution Professional did not receive additional information as sought for within the stipulated 180 days CIRP period and apprised the CoC that after examining the pros and cons of the Resolution Plan submitted by Resolution Applicant under Section 30(2) of the IBC, it was decided that Resolution Applicant is not compliant under section 29A. The Resolution Applicant on number of occasions earlier also sought time for providing documents. The Resolution Applicant even before 7th CoC meeting i.e. on 28.03.2019, sought further 10 days' time to provide additional information / clarification which would surpass mandatory 180 days CIRP period. The CIRP period was to expire on 07.04.2019. In the mail received by Resolution Professional, the Resolution Applicant offered an amount of Rs. 17.5 Crores subject to getting possession of the property held by M/s. Sansar . However, CoC opined that the offer was paltry in comparison to valuation of the assets of the Corporate Debtor.
- 2.12** The Resolution Professional stated that since only one resolution plan was received for consideration, which did not meet the requirements of IBC Code, the CoC through a resolution passed in the CoC meeting recommended for liquidation of the Corporate Debtor.
3. We heard the Counsel for Resolution Professional. The present Application is filed by the Resolution Professional under Section 33 (1) of IBC, 2016 seeking initiation of liquidation process of M/s. Atlantic Spinning and Weaving Mills Limited/Corporate Debtor.
4. The Resolution Professional / Applicant herein informed the Tribunal that in the 7th CoC meeting held on 29.03.2019 the

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[Signature]

members of CoC with 100% voting share approved in favour of liquidating the Corporate Debtor Company. Hence, the CoC passed a resolution for liquidating the Corporate Debtor Company.

5. Section 33 of Insolvency and Bankruptcy Code, 2016 read as follows:

(1) Where the Adjudicating Authority, —

(a) 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 resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

6. As per Section 33(1) (a) of the Code, if the Resolution Professional has not received any Resolution Plan under Section 30(6) within CIRP period, the Tribunal is left with no other option but to pass a liquidation order. The Resolution Professional has not filed any Resolution Plan before this Tribunal under Section 30(6) within CIRP period. By relying on Section 33(1) (a) of the Code, the Resolution Professional having not submitted any Resolution Plan within CIRP period leads to passing an order of liquidation. We see no other alternative except passing an order of liquidation requiring the

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Corporate Debtor/ M/s Atlantic Spinning and Weaving Mills Ltd to be liquidated in the manner laid down in Chapter 3 of Part 2 of the Insolvency and Bankruptcy Code, 2016.

7. As per Section 34(1) of the Code after passing the order of liquidation of Corporate Debtor, the Resolution Professional appointed for CIRP Process shall act as Liquidator for conducting Liquidation Process. However, the Resolution Professional expressed his unwillingness to act as Liquidator. Accordingly as per Section 34 (4)(b) Ms. Sujata Chattopadhyay, Insolvency Professional herein having IP Regn. No. **IBBI/ IPA 003/IP-N00044/2017-18/10353** is appointed as the Liquidator. The proposed Liquidator has given her consent for appointing her as a liquidator.


ORDER

8. In the result, the Application is allowed and Corporate Debtor **M/s Atlantic Spinning and Weaving Mills Limited** is ordered to be liquidated.
9. The Liquidator is directed to proceed with the process of liquidation in manner laid down in Chapter III of Part 2 of the Insolvency and Bankruptcy Code, 2016 by following the liquidation process given in IBBI (Liquidation Process) Regulations, 2016.
10. 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 in the Liquidator.
11. The Liquidator is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.
12. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect.

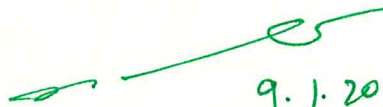




13. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Code.
14. Since Liquidation order has been passed no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, save and except as mentioned in Section 52 of the Code, as to institution of legal proceedings by the Liquidator, he is at liberty to initiate suit or legal proceedings with prior approval of this Adjudicating Authority, but this direction shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
15. We hereby direct that the fee shall be paid to the Liquidator as envisaged under Regulation 4 of IBBI (Liquidation process) Regulations, which forms part of the liquidation cost.
16. The Liquidator shall submit a Preliminary Report within 75 days from the Liquidation Commencement date as per Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016.
17. Copy of this order be sent to RoC, Hyderabad for suitably changing the status of M/s Atlantic Spinning & Weaving Mills Limited as "under liquidation" on the MCA website immediately.


9.1.2020

NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)


9.1.2020

RATAKONDA MURALI
MEMBER (JUDICIAL)