

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT - I, SPECIAL BENCH, MUMBAI
IA No.. 3680 of 2019
in
CP (IB) No. 533/MB/2018

In the matter of an application under Section 33(2) of IBC, 2016

Bharatiraju Vegiraju,
Resolution Professional of Tork Fastners Pvt Ltd.
W-33B, MIDC, Ambad, Nashik Maharashtra

... Applicant

In the matter of:
CB Yashi & Co.

...Operational Creditor

V/s

Tork Fastners Private Ltd.

...Corporate Debtor

Date of Order: 29.10.2020

CORAM:

Hon'ble Shri H.P. Chaturvedi, Member Judicial

Hon'ble Shri V. Nallasenapathy, Member Technical

Appearance (via video conferencing):

For the Applicant: Mr. Bharatiraju Vegiraju, (Resolution Professional)

Per: H.P. Chaturvedi, Member (Judicial)

ORDER



1. This is an application by the Resolution Professional, Bharatiraju Vegiraju, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (the Code) seeking orders for liquidation of the Corporate Debtor.
2. This Bench by an order dated 22.07.2019 admitted the Petition (CP IB No 533/MB/2018) under Section 9 of the Code, initiating Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP). The IRP constituted Committee of Creditors (CoC) on 21.08.2019 and the CoC in the 3rd CoC meeting held on 23.09.2019, passed resolution confirming Mr. Bharatiraju Vegiraju (Applicant) as Resolution Professional (RP) of the Corporate Debtor.
3. It is submitted that Tushar J Patil and Suni Pingle were appointed as Valuers of the Corporate Debtor with the approval of CoC. The Applicant placed the valuation Report stating Fair Value and Liquidation Value before the CoC Members.
4. It is submitted that in the 3rd CoC meeting held on 23.09.2019, the CoC discussed the non-availability of plant and machinery, books of accounts, etc.. And passed the following resolution with 100% voting share to liquidate the Corporate Debtor:

"Resolved that the Committee of Creditors considered the CIRP process of Tork Fastners Private Limited (the Corporate Debtor) in the matter of Order No.CP/533/NCLT/MAH/2018 dated 22.07.2019 and in the absence of any favourable factors for Corporate Resolution of Corporate Debtor and non-existence of any chances of Corporate Resolution, CoC hereby decided that the Corporate



Debtor namely Tork Fastners Private Limited be liquidated under sec. 33 of Insolvency and Bankruptcy Code 2016 (as amended update) and Recommends to Hon'ble Adjudicating Authority of NCLT accordingly."

5. The Applicant herein Bharatiraju Vegiraju, has given his consent to act as a Liquidator of the Corporate Debtor.
6. Upon hearing the Applicant and going through the pleadings this bench is inclined to order liquidation of the Corporate Debtor under section 33 of the code.

ORDER

The application be and the same is allowed. The Corporate Debtor, Tork Fastners Private Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code with the following consequential directions:

- a) Mr. Bharatiraju Vegiraju, having Registration No. IBBI/IPA-002/IP-N00706/2018-19/12325 is appointed as Liquidator.
- b) The Liquidator shall issue public announcement stating that the Corporate Debtor is in liquidation.
- c) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- d) The Moratorium declared under Section 14 of the code, 2016 of the code shall cease to operate.
- e) Subject to section 52 of the Code, 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however 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.

- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) This Order 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.
- j) The Liquidator is directed to send a copy of this Order to concerned Registrar of Companies and Insolvency and Bankruptcy Board of India, New Delhi.

Sd/-
V. Nallasenapathy
Member Technical

Sd/-
H.P. Chaturvedi
Member Judicial

Certified True Copy
Copy Issued "free of cost"
On 23.11.2020


Joint Registrar
National Company Law Tribunal Mumbai Bench



**NATIONAL COMPANY LAW TRIBUNAL
COURT No. – I, MUMBAI BENCH**

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12. IA No. 1614/MB/2020
 &
 IA No. 3680/MB/2020
 IN
 C.P. (IB) No. 533/MB/2018

CORAM: SHRI H.P. CHATURVEDI, HON'BLE MEMBER (J)
 SHRI V. NALLASENAPATHY, HON'BLE MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **29.10.2020**

NAME OF THE PARTIES: Bharatiraju Vegiraju.... (Applicant)
 In the matter of
 CB Yashi & Co.Original Petitioner
 V/s
 Tork Fasteners Pvt. Ltd. ...Respondent / C.D.

Section 60(5) & Section 9 of the Insolvency and Bankruptcy Code, 2016.

ORDER

The matter is taken up through Video Conferencing.

IA No. 1614/MB/2020:-

This is an Application filed by Resolution Professional / Applicant to
permit him to carry out necessary amendment in the prayer Clause "C" of IA No.
3680 of 2019.



Counsel for the Applicant submits that previously they had suggested one Mr. Bhartiraju Vegiraju as liquidator of the Corporate Debtor. Now they want to replace him as liquidator with one Mr. Mukesh Khathuria bearing Registration No. IBBI/PA-001/IP-P01216/2018-19/11925.

Having heard the counsel for the Applicant, the Application is allowed by permitting the petitioner to substitute Mr. Mukesh Khathuria as liquidator of the Corporate Debtor instead of Mr. Bhartiraju Vegiraju.

IA No. 3680/MB/2020:-

Heard the counsel for the Applicant. Application allowed vide separate orders.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
H.P. CHATURVEDI
Member (Judicial)

Steno: Vedant



Certified True Copy
Copy Issued "free of cost"
On 23.11.2020


Joint Registrar
National Company Law Tribunal Mumbai Bench