

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
T.C.P.NO. 64/I&BP/NCLT/MB/MAH/2017

CORAM:

SHRI M.K. SHRAWAT
MEMBER (JUDICIAL)

In the matter of The Insolvency and Bankruptcy Code, 2016

BHARAT TRADING CORPORATION.

....

Petitioner.

Versus

M/s. WIND-WAYS PACKAGING PRIVATE LIMITED. ...

Respondent.

PRESENT ON BEHALF OF THE PARTIES

Ms. Unnati Nandalaskar (IRP on behalf of Anil Menezes) present..

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ORDER

Heard on : 02.08.2017.

Pronounced on : 04.08.2017

1. The Learned Representative from the side of the IRP is present.
2. She stated the steps taken so far by the IRP which are reproduced in para Nos. 1,2,3,4,5 and 6 from their Praecipe dated 20.07.2017 as under :-
 - "1. That the application for Corporate Insolvency Resolution Process was filed by Bharat Trading Corporation, the Operational Creditor under Section 8 & 9 of the Insolvency and Bankruptcy Code read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 and was admitted by Hon'ble National Company Law Tribunal, Mumbai Bench vide order dated 7th April 2017.
 2. The Applicant was appointed as the Interim Resolution Professional, by Hon'ble National Company Law Tribunal, Mumbai Bench vide order dated 26th April 2017, who is directed to take necessary actions in accordance with the relevant provisions of the Insolvency and Bankruptcy Code, 2016.
 3. That pursuant to above, the Committee of Financial Creditors was formed and the first meeting of Committee of Creditors held on 1st June, 2017. In this meeting the members abstained from appointing the Interim Resolution Professional as Resolution Professional nor did they replace, the Interim Resolution Professional to take over the affairs as per Section 22(2) of the Insolvency and Bankruptcy Code, 2016. Further the members also abstained from fixing the remuneration and expenses of the Interim Resolution Professional for the first 30 days.

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4. *In its 2nd Meeting held on 12th July, 2017, the member of Committee of Creditors decided to liquidate the Corporate Debtor. Further in the said meeting, the members of the Committee abstained from fixing the remuneration and expenses of the Interim Resolution Professional for the first 30 days and they further abstained from fixing the remuneration and expenses from the date of previous meeting of Committee of Creditors held on 1st June 2017 till date, citing the reason of pending approval from higher management/sanctioning authority, which shall be considered for approval in the upcoming Board Meeting of the Financial Creditor.*
5. *The Applicant hereby intimates that, the member in the meeting of the Committee of Creditors of M/s Wind-Ways Packaging Private Limited held on Wednesday, 12th July, 2017 unanimously voted for the decision of liquidation of the Corporate Debtor as per Section 33(2) of the Insolvency and Bankruptcy Code, 2016.*
6. *That pursuant to the above decision to liquidate the Corporate Debtor in the said meeting of Creditors, they have not appointed a Liquidator nor fixed the remuneration, citing the reason of approval from higher management / sanctioning authority, which shall be considered for approval in the upcoming Board Meeting of the Financial Creditor."*
3. At present the IRP is seeking Order under section 33(2) of the Insolvency and Bankruptcy Code to pass the Liquidation Order so as the Company can be liquidated as per the Code. The IRP to proceed under the provisions of Section 33(2) as per law.
4. So far as the Mandate dated 18.07.2017 the Liquidation Fees of IRP is Rupees Five Lakhs to be borne by the Bank. The Bank is hereby directed to pass the necessary Resolution and make arrangement for the fees demanded.
5. The IRP is directed to place on record the Progress Report on **1st September 2017.**

Sd/-

M.K. Shrawat
Member (Judicial)

Dated: 04.08.2017



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On 23.8.17

Assistant Registrar

National Company Law Tribunal Mumbai Bench