

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

C.A. 83/C-II/ND/2020

IN

Company Petition No. (IB)-1650(ND)/2018

IN THE MATTER OF:

**Corporation Bank
2223, Hardhyan Singh Road
Karol Bagh, Delhi-110005**

...Financial Creditor

Versus

**Exclusive Fibers Limited
31/3203, Beadonpura,
Karol Bagh, New Delhi-110005**

...Corporate Debtor

AND IN THE MATTER OF:

**Aakash Singhal, Resolution Professional
G-8&9, Hans Bhawan,1,
Bahadur Shah Zafar Marg,
ITO, New Delhi-110002**

...Resolution Professional / Applicant

Order Delivered on: 07.01.2020

Section: 33(1)(a) and 33(2) of the IBC, 2016.

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Mr. R.K. Gupta, Advocate

For the Respondent : None



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ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

An application has been filed by Sh. Aakash Singhal, the Resolution Professional of M/s Exclusive Fibers Limited under Sections 33(1)(a) and 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for seeking following reliefs :

- "(a) Pass an appropriate directions / order requiring the Corporate Debtor to be liquidated in terms of the provisions as laid down under the code;"*
- "(b) Direct to issue public announcement qua commencement of the liquidation process of the corporate debtor, and;*
- "(c) To appoint Mr. Aakash Singhal, Insolvency Professional/ Resolution Professional to act as Liquidator in terms of his consent dated 20.12.2019 and decision of CoC of the Corporate Debtor."*

2. Facts of the case in nutshell are that the Financial Creditor, Corporation Bank has filed an application bearing No. IB-1650/(ND)/2018 under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, M/s. Exclusive Fibers Limited. The said Application was admitted by this Tribunal vide Order dated 28.03.2019 and Mr. Aakash Singhal was appointed as Interim Resolution Professional (IRP).



3. In terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a public announcement in Form-A on 09.04.2019. The Public announcement was also uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

4. The Interim Resolution Professional constituted a Committee of Creditors (CoC), which comprised of two Banks namely Punjab National Bank and Corporation Bank, having voting shares of 19.77% and 80.23% respectively. The first meeting of the CoC was held on 06.05.2019, wherein the Resolution Professional was confirmed as Resolution Professional.

5. It is further submitted by the Applicant that on an application filed by the IRP, this Tribunal vide its order dated 30.05.2019 had confirmed the appointment of Sh. Aakash Singhal as RP.

6. It is submitted by the Ld. RP that the CIR process of the Corporate Debtor was extended to a further period of 90 days by this Tribunal vide order dated 13.09.2019.

7. It is further submitted by the RP that during the CIR period, only one resolution plan was received from M/s Navkar Woollens Pvt Ltd. The same was placed before the Committee of Creditors (CoC) in its 8th meeting held on 17.12.2019 by way of the following resolution for consideration :



“Resolved that the Revised Resolution Plan dated 12th December 2019 submitted on 13th December, 2019 by M/s Navkar Woollens Private Limited be and is hereby approved by the Committee of Creditors.”

8. That it is submitted by the RP that the aforesaid Resolution was put to vote from 21.12.2019 to 23.12.2019, 12:00 PM and was rejected by the CoC by 100% voting share.

9. That the RP has also given his written consent vide his Letter dated 20.12.2019 to act as Liquidator under Section 34(1) of IBC 2016.

10. Since the only Resolution Plan received has been rejected by the CoC and there being no other alternative left, this Bench is inclined to Order Liquidation of the Corporate Debtor.

11. In sequel to the above, the Application is allowed, ordering Liquidation of the Corporate Debtor, M/s. Exclusive Fibers Limited in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant Rules and Regulations along with the following directions:

- a. Mr. Aakash Singhal, IBBI Registration No. IBBI/IPA-001/IP-00137/2017-18/10279, is appointed as Liquidator who has given his written consent to act as Liquidator in terms of Section 34 (1) of IBC 2016.
- b. The Liquidator, is directed to issue 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;

- c. The Order of Moratorium passed 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;
- d. This order shall be 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. Liquidator shall follow up with the application regarding Preferential Transaction and Fraudulent Trading.
- f. The Liquidator shall 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.
- g. The Registry is directed to communicate a copy of the Order to the Financial Creditor, the Corporate Debtor and Liquidator at the earliest but not later than seven days from today. A copy of this Order be also sent to the ROC for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT.



h. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;

12. C.A.-83(ND)/2020 filed in IB-1650(ND)/2018 is disposed-off in the aforesaid terms.

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(L. N. Gupta)
Member (T)

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(Ina Malhotra)
Member (J)