



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.302
IA/598(AHM)2022
in
CP(IB) 844 of 2019

Order under Section 33(1), 33(2), 34 r.w 33(3) of IBC

IN THE MATTER OF:

Trupal Kumar Patel RP of Alcock Ashdown (Gujarat) LimitedApplicant

V/s

COC of Alcock Ashdown (Gujarat) LimitedRespondent

Order delivered on: 03/01/2025

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sdr-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-Sdr-

CHITRA HANKARE
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

I.A. No. 598 (AHM) 2022

in

C.P. (I.B.) 844 of 2019

[Application for liquidation under Section 33 and 34 of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

Trupal Kumar Patel

Resolution Professional of
Alcock Ashdown (Gujarat) Limited
Having office at:
C505-506, The First,
B/h. ITC Narmada,
Nr. Keshavbaug Party Plot,
Vastrapur, Ahmedabad – 380015.

... Applicant

Versus

CoC of Alcock Ashdown (Gujarat) Limited

Government of Gujarat through:
Industries Commissioner, Gujarat,
Block No.1, 2nd Floor, Udhogbhawan,
Sector-11, Gandhinagar – 382010.

... Respondent

Order pronounced on: 03.01.2025

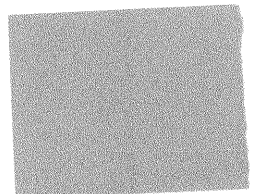
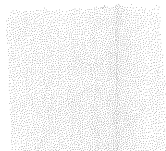
Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

Appearance:

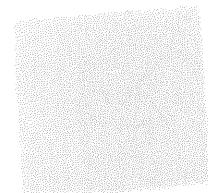
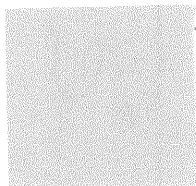
For the Applicant : Mr. Kunal Vaishnav, Ld. Adv.
RP : Mr. Trupal Patel






JUDGEMENT

1. The present application is filed by the Resolution Professional of the Corporate Debtor- Alcock Ashdown (Gujarat) Limited under section 33 and 34 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of liquidation against the corporate debtor and appointment of liquidator as per the provisions of IBC, 2016.
2. The averments made in the application are as follows:
 - a. The corporate debtor was admitted into CIRP *vide* order dated 08.03.2021 by this Tribunal in CP (IB) No. 844 of 2019 under Section 10 of IBC and the IRP was appointed.
 - b. The IRP made public announcement on 10.03.2021 for inviting claims from the Creditors. The IRP then constituted the Committee of Creditors as per Regulation 16 of the IBBI (Insolvency Resolution Process for Corporate Persons), 2016. The committee consisted of Government of Gujarat, through the Industries and Mines Commissioner, the sole financial creditor of the corporate debtor.
 - c. This Tribunal *vide* order dated 14.06.2021 in IA No. 365 of 2021 replaced the IRP with the present applicant Mr. Trupal kumar Patel to act as Resolution Professional. The applicant published Form G dated 11.06.2021 inviting Expression of Interest (EoI)






from prospective resolution applicants with last date for submission of EOI being 10.07.2021.

- d. It is submitted that this Tribunal *vide* orders dated 06.09.2021 in IA 600 of 201, 03.12.2021 in IA 811 of 2021, 03.02.2022 in IA 88 of 2022, 27.04.2022 in IA 385 of 2022 granted extension of CIRP period on various occasions. The applicant submitted that CoC member was reminded in all CoC meetings and through various emails to take necessary decisions on the Resolution Plans as received. However, no decision was taken by the CoC on resolution plan.
- e. The Tribunal *vide* order dated 27.04.2022 in IA 385 of 2022 gave last opportunity to the CoC to expedite the decision process within the extended period; however, no decision was taken by the CoC.
- f. The applicant submitted that the maximum period as provided under section 12 of IBC has been completed and no decision has been taken by the CoC in respect of the Resolution Plans as submitted by Haq Steels and Metaliks Limited and Marine Emergency Response Centre Private Limited.
3. The applicant filed an affidavit dated 06.05.2024 along with the minutes of meeting of CoC held on 02.01.2024, wherein, a resolution to proceed with the filing of the Liquidation Application was put to voting, which is as under:



“RESOLVE THAT pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016 and the regulations made thereunder, the consent of the CoC Members be and is hereby accorded for filing application for Initiation of Liquidation proceedings against the Corporate Debtor, Alcock Ashdown (Gujarat) Limited and to appoint the existing Resolution Professional i.e., Mr. Trupal J. Patel in the capacity of the Liquidator of the Corporate Debtor, pursuant to his consent to act as liquidator.”

4. The applicant in compliance to order dated 06.11.2024 in IA 598 of 2022 served the notice of application of Liquidation to the CoC *vide* email dated 12.07.2022.
5. Heard Id. Counsel for the applicant and perused the documents available on record.
6. It is observed from the minutes of the CoC meeting held on 02.01.2024 that CoC has unanimously decided to liquidate the Corporate Debtor and approved appointment of applicant as liquidator. Further, CoC has also approved for sale of Corporate Debtor as going concern under clause (e) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 read with Regulation 39C of IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 or sale of business of the Corporate Debtor as a going concern under clause (f).




7. The Hon'ble Supreme Court in the matter of K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018 held that the commercial decision of CoC is non-justiciable. In the present case, CoC with requisite voting as given under section 33(2) of IBC, 2016 has approved Liquidation of Corporate Debtor, this Tribunal has very limited judicial review in such matters of commercial wisdom.

8. In view of the above, we pass the following orders:

ORDER

- I. IA 598 of 2022 in CP (IB) 844 of 2019 is allowed.
- II. The Liquidation of Corporate Debtor- Alcock Ashdown (Gujarat) Limited, is effective from the date of this order and the Moratorium declared *vide* order dated 08.03.2021 in CP(IB) 844 of 2019, henceforth ceases to exist from the date of the order of liquidation.
- III. In terms of the IBBI circular number Liq-12011/214/2023-IBBI/840 dated 18.07.2023, we hereby appoint Mr.Balmukund Kabra, having registration no. IBBI/IPA-001/IP-P-00544/2017-2018/10974 and email id-bkabraco@yahoo.com, as per the panel suggested by IBBI for this Bench as the Liquidator of the Corporate Debtor to carry the liquidation process. The Liquidator so appointed shall complete the Liquidation process as per




the provisions of the Insolvency and Bankruptcy Code, 2016 r.w. Insolvency and Bankruptcy Board of India (Liquidation process) Regulation, 2016.

- IV. All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the Liquidator
- V. The personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- VI. The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- VII. Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.



- VIII. This liquidation order shall be deemed to be 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.
- IX. The CoC is directed to contribute to the liquidation cost if any short fall occurs from the liquidation value of the Corporate Debtor.
- X. This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workmen/employees could also be informed of this liquidation order through their association.
- XI. The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any




pending Company Applications during the process of liquidation.

- XII. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
- XIII. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.
- XIV. Accordingly, the present I.A. No. 598 of 2022 stands disposed of.



DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)



CHITRA HANKARE
MEMBER (JUDICIAL)

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