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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

*MA/344/2018 filed in CP/541/IB/2017 by
Mr.Dhiren S. Shah, Resolution Professional
Section 33(2) of the Insolvency and
Bankruptcy Code, 2016.*

In the matter of

M/s. L&T Finance Limited.

..... Financial Creditor

Vs.

M/s. Meka Dredging Company Private Limited.

..... Corporate Debtor

Corporate Debtor through RP viz., Mr.Dhiren S. Shah

Order delivered on 20th of September, 2018

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For RP : Mr. Umashankar and Ms.Sridevi, Counsels.

For Corporate Debtor(s) : Mr. Abdul Mubeen, Counsel.

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL):

1. The Miscellaneous Application MA/344/2018 in CP/541/IB/CB/2017 has been filed on 09.08.2018 by the Resolution Professional viz., Mr. Dhiren S. Shah, under Section 33(2) of the Insolvency and Bankruptcy

Code, 2016, (in short 'I&B Code, 2016'), for liquidation of the assets of the Corporate Debtor viz., M/s. Meka Dredging Company Private Limited that has been undergoing Corporate Insolvency Resolution Process (CIRP) since 09.02.2018 for a period of 180 days that has expired on 08.08.2018.

2. CP/541/IB/CB/2017 was filed under Section 7 of the I&B Code, 2016 by the Financial Creditor viz., M/s. L&T Finance Limited, which was admitted by this Bench vide Order dated 09.02.2018; the CIRP was initiated against the Corporate Debtor viz., M/s. Meka Dredging Company Private Limited; the moratorium was declared and the Applicant Mr. Dhiren Shantilal Shah was appointed as Interim Resolution Professional (IRP) in the matter.


3. It is stated that the Resolution Professional has made a public announcement on 15.02.2018 inviting proof of claims by the creditors of the Corporate Debtor,

the copy of which is placed at page 39 of the typed set filed with the Application.

4. It is averred by the Resolution Professional that the Committee of Creditors (CoCs) was constituted, and in the 1st Meeting of the CoCs conducted on 13.03.2018, the CoCs unanimously resolved to appoint the Applicant viz., Mr. Dhiren Shantilal Shah as RP, the copy of the minutes of meeting is placed at pages 45 to 50 of the typed set filed with the Application.

5. In the 4th Meeting of the CoCs held on 30.04.2018 it was decided to call for publication in newspapers for 'Expression of Interest' on 04.05.2018 fixing the last date for receipt of "EoI" on 03.06.2018. Thereafter, the Resolution Professional has taken steps seeking 'EoI' for inviting Resolution Plans in respect of the Corporate Debtor. In the 5th Meeting of the CoCs held on 14.05.2018, the appointment and costs of auditor to carry out forensic audit were discussed. In the 6th

Meeting of the CoCs held on 04.06.2018, review of the two 'EoI' received by the Resolution Professional and its status were deliberated by the CoCs.


6. It is stated by the Resolution Professional that despite consistent efforts being taken by him, no Resolution Plan was forthcoming in respect of the Corporate Debtor and the period of CIRP expired on 08.08.2018, therefore, the Resolution Professional informed the CoCs that there are two agendas for voting; one for extension of time for 90 days or liquidation. The resolution is put to the vote and ARCIL having 70.11% vote share have voted against the extension of time and voted in favour of liquidation of the Corporate Debtor. The L&T Finance having 29.89% vote have voted in favour of extension of time and voted against liquidation of Corporate Debtor. Hence, resolution for liquidation of Corporate Debtor is approved by 70.11% vote. 

7. Therefore, in the 9th Meeting of the CoCs held on 27.07.2018, wherein the resolution passed for liquidation of the Corporate Debtor is as follows: -

“Resolution for liquidation of Corporate Debtor is approved by 70.11% vote.....”

8. Accordingly, the Resolution Professional has filed the Miscellaneous Application under Section 33(2) of the I&B Code, 2016, to seek order for liquidation of the Corporate Debtor.

ORDER

9. In view of the facts and circumstances recorded by Resolution Professional in the Miscellaneous Application No.344/2018 filed in CP/541/IB/CB/2017, and the resolution passed by the CoCs as referred hereinabove, this Authority in exercise of powers conferred under Sub-Clauses (i)(ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, proceed to pass Order as follows:- 

- I. This Authority orders for liquidation of the Corporate Debtor viz., M/s. Meka Dredging Company Private Limited, which shall be conducted in the manner as laid down in Chapter III of Part II of the I&B Code, 2016;
- II. This Authority appoints the Resolution Professional viz., Mr. Dhiren Shantilal Shah Company Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;
- III. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf

of the Corporate Debtor, with the prior approval of this Authority.

V. This Authority makes it clear that para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

VI. 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.

VII. All the 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 with

the Company Liquidator viz., Mr. Dhiren Shantilal Shah. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. The Company Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board. Accordingly, the fees of the conduct of the liquidation proceedings shall be paid to the Company

Liquidator from the proceeds of the liquidation estate.

- X. Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor by the Company Liquidator viz., Mr. Dhiren Shantilal Shah for information and compliance.

10. In terms of the above, Miscellaneous Application No.344/IB/2018 in CP/541/IB/CB/2017 filed by the Resolution Professional under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Meka Dredging Company Private Limited, stands **disposed of**.

11. It is worthwhile to place on record that the Hon'ble NCLAT vide its Order dated 06.08.2018 has observed that *"if Adjudicating Authority pass any order of liquidation, the Adjudicating Authority or the Liquidator will not sell movable or immovable assets of the Corporate Debtor. In*

such case, the Resolution Professional/Liquidator will also ensure that the Corporate Debtor continues as an ongoing concern". Therefore, the Order for liquidation of the Corporate Debtor is subject to the directions given by the Hon'ble NCLAT till a final order is passed in Company Appeal (AT) (Insolvency) No. 118/2018.

12. The Registry is directed to send a copy of this Order to the Company Liquidator with immediate effect for information and compliance.

13. Order pronounced in open Court in the presence of the Resolution Professional and his Counsel and Counsel for the Corporate Debtor.


[CH. MOHD SHARIEF TARIQ]
MEMBER (JUDICIAL)

P. ATHISTAMANI