

①

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P No. 1045/(MAH)/2017
M.A. No. 534/2017
& M.A. No. 535/2017

CORAM:

Present:

SHRI B.S.V. PRAKASH KUMAR
MEMBER (J)

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 27.11.2017

NAME OF THE PARTIES: Vandana Udhyog Ltd. (VUL)

SECTION OF THE COMPANIES ACT: I & BP Code 2016.

S. No.	NAME	DESIGNATION	SIGNATURE
--------	------	-------------	-----------

1	SHYAM KAPADIA	COUNSEL	}	[Signature]
---	------------------	---------	---	-------------

2.	ABHISHEK ADKE	ADVOCATE	}	.
----	------------------	----------	---	---

3.	DHANANJAY KUMAR a/w SALONI KAPADIA a/w ANUSH MATHKAR i/b CYRIL AMARUHAND MANGALDAS As RESPONDENT NO. 2	}	}	[Signature]
----	---	---	---	-------------

4.	ASHISH PYASTI	Advocate i/b Dhire & Dhire Associates Adv. for C.D. (custodian management)	}	[Signature]
----	---------------	---	---	-------------

5.	SHRUTI SARDESSAI	ADVOCATE FOR IRP MR. ADESH MEHTA	}	[Signature]
----	------------------	-------------------------------------	---	-------------

ORDER

MA 534/2017& 535/2017 in CP 1045/I&BP/NCLT/MB/MAH/2017

On the applications moved by two Financial Creditors, namely Diamond Wires Pvt. Ltd and Shivam Galvanized Wires Pvt Ltd assailing the decision taken by the Insolvency Resolution Professional, on verification of the records available before this Bench, it appears that the promoter of the company Mr. Prahlad Agarwal, and these Financial Creditors namely, Diamond Wires Pvt. Ltd, Shivam Galvanized Wires Pvt. Ltd., and one Kamal Associates & Manush Commodities Pvt Ltd have been shown as Creditors under the caption of unsecured long term loan in the provisional Balance Sheet dated 20.5.2017 filed by the Corporate Debtor along with Section 10 petition.

For this long term borrowing of ₹95,42,36,938 showing against the name of each of the unsecured creditors as on 20.5.2017 is shown as ₹82.96crores as on 31.3.2016, this figure of ₹82.96 crores showing in the Balance Sheet of 31.3.2016 is same as the unsecured loan part showing as provided by promoters and associated companies in Column No.25 of this BIFR application. Since this unsecured loan shown as come from the promoters and associates in the BIFR application has not been tallying

Contd....3/

with any other credit facility in the balance sheet consecutively filed by this Corporate Debtor company, except with the long term borrowing from the unsecured creditors, prima facie it is to be conceived that long term borrowing shown in the BIFR Application and the Balance Sheets of the Company as one and the same for all the years ever since it has come into the company, therefore the names of the entities against whom this borrowing shown in the provisional balance sheet as on 20.5.2017 shall be none other than the entities shown as promoters and associates of the corporate debtor.

One of the major secured Financial Creditors had already filed MA 485/2017 assailing the decision of the same Insolvency Resolution professional saying that the present applicants are related parties whereby they should not be included as members in the Committee of Creditors, basing on which, this Bench passed order on 20.10.2017, directing this Interim Insolvency Resolution professional to decide as to whether these applicants falling within the definition of related parties as envisaged under Section 5 of sub-section 24 of the IB Code or not.

On such direction, this Interim Insolvency Resolution professional deleted these applicants as Financial Creditors declaring that they ceased

to continue as members of Committee of Creditors in the verification made on 21.10.2017. This time this IRP, though it is not the case of the applicant in 485/2017 that these applicants are not Financial Creditors, went ahead deciding that these applicants are not Financial Creditors, which is again contrary to the reflections appearing from the Books of the Company.

In view of this inconsistency existing in the verification report filed by this Interim Insolvency Resolution Professional, since this Interim Insolvency Resolution Professional still continue as IRP until RP is appointed, he is hereby directed to place books of the company from 31.3.2014 till 20.5.2017 on next date of hearing.

Though order has been passed for confirmation of the name of the Resolution Professional on 13.11.2017, since confirmation has yet not been received from IBBI, the Registry is hereby directed to pursue the same so as to expedite the insolvency process.

List this matter on 30.11.2017.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B. S. V. PRAKASH KUMAR
Member (Judicial)