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**BEFORE THE AJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

IA 342/2017 in C.P. (I.B) No. 1/9/NCLT/AHM/2017

Coram:


**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 29.11.2017**

Name of the Company: Kailash T Shah RP
(Gurinandan Fashions Pvt. Ltd.)
V/s.
Pooja Tex-Prints Pvt Ltd.

Section of the Companies Act: Section 30(6) of the Insolvency and Bankruptcy
Code


S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1. PAVAN S. GODIAWALA ADVOCATE APPLICANT 
2.

ORDER

Learned Advocate Mr. Pavan Godiawala present for Applicant. None present for Respondent in IA 342/2017.

Order in IA 342/2017 pronounced in open Court. Vide separate sheets.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 29th day of November, 2017.

**BEFORE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AMEDABAD BENCH**

**IA 342/2017 in C.P. (I.B.)
No. 1/9/NCLT/AHM/2017**

In the matter of:

CA Kailash T. Shah
Resolution Professional
505, 21st Century Business Centre
Near World Trade Centre
Ring Road
SURART 395 003

Applicant

VERSUS

Pooja Tex-Prints Pvt. Ltd.
406, GIDC, Pandesara
SURAT 394 221

Respondent

Order delivered on 29th November, 2017

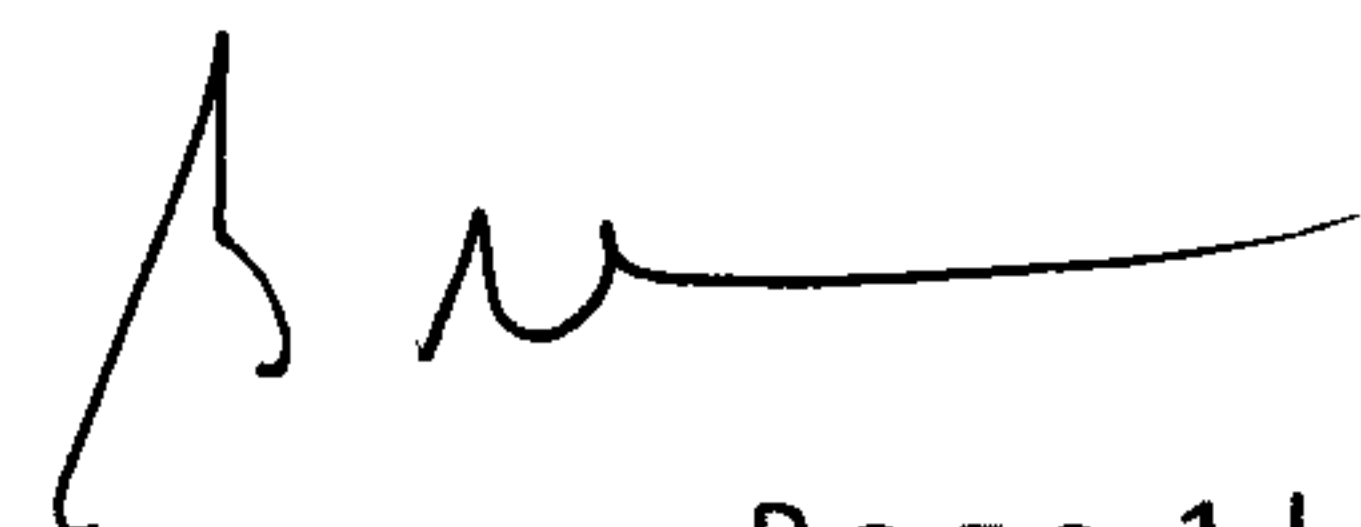
Coram: Hon'ble Mr. Bikki Raveendra Babu, Member Judicial

Appearance:

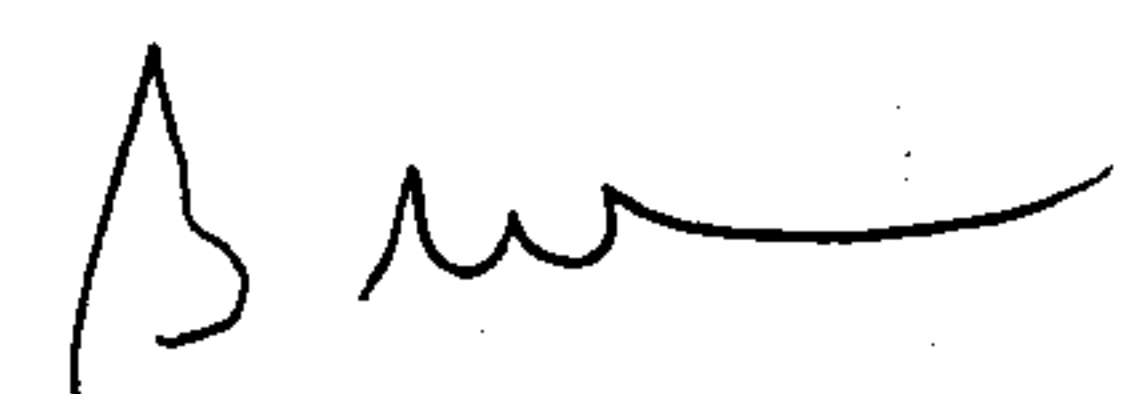
Learned Advocate Mr. Pavan Godiawala present for applicant.
Learned Advocate Mr. Dhaval Shah present for respondent in IA
342/2017

ORDER

01. In the 5th meeting held on 23.09.2017, Committee of Creditors passed a Resolution authorising the Resolution Professional to make an application seeking liquidation of the Corporate Debtors viz. Pooja Tex-Prints P. Ltd.



02. Pursuant to the Resolution, the Resolution Professional filed this application seeking an order of liquidation of Corporate debtors.
03. The facts in brief, that are germane for the purpose of this order, are as follows: -
04. Operational Creditors M/s. Gaurinandan Fashion Private Limited filed C.P. (I.B.) No. 1/9/NCLT/AHM/2017 seeking Corporate Insolvency Resolution Process (CIRP). The said petition was admitted by this Adjudicating Authority on 29.03.2017. This Adjudicating Authority after referring the matter to IBBI and basing on the recommendation of IBBI appointed Mr. Kailsah Shah (applicant herein) as Interim Resolution Professional (IRP). IRP constituted of a Committee of Creditors showing the name of M/s. Gaurinandan Fashion Private Limited who is the sole operational creditor. IRP also called for the claims. Interim Resolution Professional was appointed as Resolution Professional by the Committee of Creditors in the meeting held on 12.06.2017. Thereafter, Resolution Plans were submitted by Mr. Kailash Shah and Mr. Akshay Vyas. The said Resolution Plans were not accepted by the Committee of Creditors. In the meeting of the Committee of Creditors held on 23.09.2017, the Committee of Creditors resolved to go for liquidation of the Corporate Debtor and accordingly authorised the Resolution Professional.

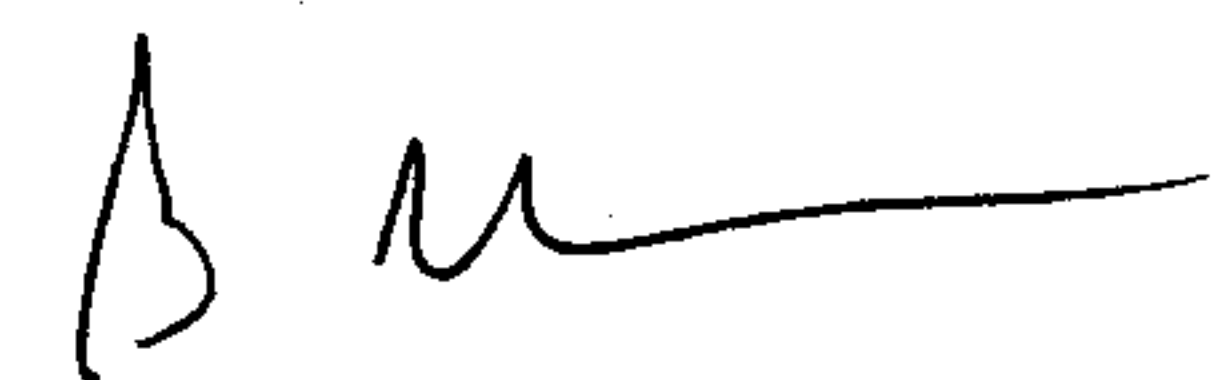


05. From the material placed on record by RP it is clear that there is only one operational creditor in respect of Pooja Tex-Print Private Limited.

Proviso to sub-section 8 of Section 21 of the Insolvency and Bankruptcy Code, 2016 reads as follows: -

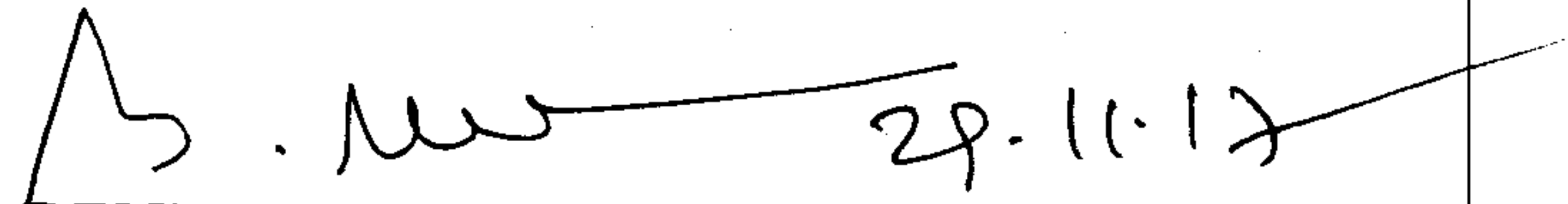
"Provided that where a corporate debtor does not have any financial creditors, the Committee of Creditors shall be constituted and comprise of such persons to exercise such functions in such manner as may be specified by the Board."

06. In the case on hand, except M/s. Gaurinandan Fashion Private Limited., there are no other financial creditors or operational creditors. Hence, in view of the proviso to sub-section (8) of Section 21 of Insolvency and Bankruptcy Code, 2016, the Committee of Creditors shall be constituted by the Board and not by the IRP or RP. Therefore, the Committee of Creditors constituted by IRP is not a legally valid committee. The entire resolution process undertaken by the Committee of Creditors which is not validly constituted cannot be taken into consideration. However, the so-called Committee of Creditors did not accept the resolution plan furnished ~~on behalf of the~~ Corporate debtors. No resolution plan is made available for the scrutiny of this authority till today.



07. Admission order was passed by this Tribunal on 29.03.2017. In view of sub-section (1) of Section 12 of Insolvency and Bankruptcy Code, 2016 Corporate Insolvency Process shall be completed within a period of 180 days from the date of admission of application to initiate CIRP. In the case on hand 180 days already expired.
08. Although the constitution of the Committee of Creditors is not valid, the period given for completion of Insolvency Process has been completed and, therefore, under Section 33, this Adjudicating Authority ordered for liquidation of the corporate debtors vis. Pooja Tex-Print Private Limited.
09. Hence, this Adjudicating Authority hereby pass order of liquidation in respect of corporate debtors Pooja Tex-Print P. Ltd. and direct the Liquidator to issue public announcement stating that the corporate debtors Pooja Tex-Print P. Ltd. is in liquidation.
10. This Adjudicating Authority hereby appoint the Resolution Professional as "Liquidator" under Section 31 of the Code. The Liquidator shall send intimation to the Registrar of Companies with which the Corporate Debtor is registered.
11. The "Liquidator" shall act as per Section 31 of Insolvency and Bankruptcy Code, 2016 subject to the directions of this Authority.

12. This application is disposed of accordingly.


BIKKI RAVEENDRA BABU
ADJUDICATING AUTHORITY
MEMBER JUDICIAL

Pronounced by me in open court on the 29th day of November, 2017.