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**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH**

IA 407 of 2018 in C.P. (I.B) No. 114/NCLT/AHM/2017

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.12.2018**

Name of the Company: Vikash G Jain
V/s.
ABXL Retails (India) Pvt Ltd.

Section of the Companies Act: Section 54 of the Insolvency and Bankruptcy Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	NATASHA DHRUMAN SHAH	ADV.	APPLICANT	Natasha
2.				

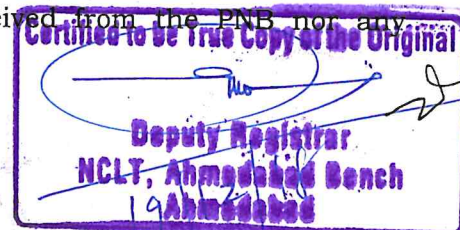
ORDER

Advocate Ms. Natasha D. Shah is present for the Applicant.

This Court earlier passed an order dated 02.07.2018 under Section 33(1) and 33(2) of the Insolvency and Bankruptcy Code, by ordering for liquidation of the present Corporate Debtor Company. Consequent thereto, Mr. Vikash Gautam Chandra Jain was appointed as Liquidator so as to complete liquidation process as per the IB Code, 2016.

The Liquidator has moved the present Application i.e. IA No.407 of 2018, praying for dissolution of the Corporate Debtor Company through a formal order of this Adjudicating Authority to be passed under Section 54 of the Insolvency and Bankruptcy Code.

After admitting the present IA, a formal notice was issued to the sole financial creditor i.e. Punjab National Bank (PNB), being the erstwhile member of the CoC, so as to invite its comments/objection, if any, despite our such notice dated 15.11.2018 as issued by the Registrar of this Tribunal, no representation is received from the PNB nor any Counsel appeared on its behalf.



Considering the above, this Court proceeded for further hearing arguments of Ld. Counsel for the applicant liquidator.

Having heard at length the submissions of the Counsel, we are of the view that sufficient reasons are shown seeking for dissolution of the Corporate Debtor Company under the provisions of Section 54 of the Insolvency and Bankruptcy Code.

The liquidator in the present application has stated the reasons in its preliminary report, specifically in para-5(a) at page No.10 to 20 of the Petitioner. It is stated therein that there are no assets available i.e. Tangible or Intangible, which belongs to the Corporate Debtor Company at the time of preparation of preliminary report. That apart the realisable properties of the Corporate Debtor Company are found insufficient and almost nil so as it could meet even the cost of liquidator process.

It is further submitted that no further investigation or inquiry on the state of affairs of the company is pending. The Ld. Liquidator further informed that the directors of the Corporate Debtor Company at present are not found available, as they are reported as absconding.

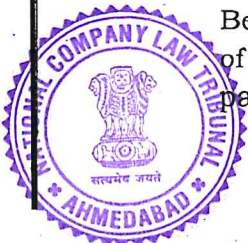
By considering above-stated peculiar facts and circumstances of the present case of the Corporate Debtor Company, the liquidator recommends for dissolution of the same and thus prayed from this Court for grant of such relief.

We heard the submissions of the Ld. Counsel for the applicant and perused the contents of the present application and documents annexed therewith. We are of the view that sufficient reasons are shown seeking for dissolution of the Corporate Debtor Company appears to be bonafide because it seems that no realisable properties and assets belonging to the Corporate Debtor Company are presently available in order to meet even cost of liquidation. Hence, further liquidation process would in this respect be a futile exercise.

Looking to such peculiar facts and circumstances of the present Corporate Debtor Company. The Corporate Debtor Company deserves for dissolution as nothing contrary is found in the record for taking a different view from the opinion of the liquidator through its preliminary report.

Therefore, the present IA is allowed. Consequently, a formal order under Section 54 of the Insolvency and Bankruptcy Code is passed by declaring that the Corporate Debtor Company, viz., ABXL Retails (India) Pvt. Ltd. is hereby ordered to be dissolved from the date of order.

Before parting from this case, we must express appreciation for report of the liquidator by performing its duties without insisting it's for payment towards his professional fees and necessary expenses incurred




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in preparation of its preliminary report with the company. There seems ^{no} no assets available even to meet the liquidation cost. Further in the present matter the sole financial creditor of the Committee of Creditors did not choose to appear before this Court even after issuance of a proper notice in respect of the present IA. It is evident that earlier, it being a financial creditor had initially moved the main IB Petition, under Section 7 of the Insolvency and Bankruptcy Code, before this Bench for triggering of the C.I.R.P, in respect of the corporate debtor the same was admitted by this Court, vide its order dated 19.09.2017. Thus, the Punjab National Bank, being a sole financial creditor has been instrumental in initiation of C.I.R.P of the Corporate Debtor Company. Therefore, it is legally expected to bear the necessary expenses incurred and the professional fees of the liquidator. Although, the liquidator could not specifically claim for payment such as fees and cost, since no assets of the Corporate Debtor Company found available. But in his preliminary report he has mentioned about the cost and expenses incurred to the tune of Rs.1.25 lakh (Rupees One Lakh Twenty-Five Thousand only). Which ~~is~~ ^{is} ~~not~~ ^{Final} place in para no. 5 of his preliminary report. Therefore, the PNB being Sole Financial Creditor of the company is hereby directed to bear liquidation cost and honorarium of the liquidator. Therefore, the Punjab National Bank; is required to make payment of Rs. 1.00 lacs to the liquidator as consolidated and lump-sum amount towards his fees and expenses, for liquidation process such amount is payable by four weeks from the receipt of an authentic copy of this order.

The Registry is directed to forward a copy of this order to the Liquidator, Office of the ROC, Ahmedabad as well as to the registered office of the Punjab National Bank and in its concerned branch for information, compliance and further follow up action to be taken in the matter.

Thus, the IA No.407 of 2018 is allowed and stands disposed of accordingly.


HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

Dated this the 04th day of December, 2018.

