

**DIVISION BENCH**

**ITEM NO.115**

**NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH  
PRAYAGRAJ**

**IA No.331/2022, IA No.106/2023, & IA No.95/2024  
IN CP (IB) No.307/ALD/2019**

**CORAM:**

- 1. SHRI PRAVEEN GUPTA,  
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI ASHISH VERMA,  
HON'BLE MEMBER (TECHNICAL)**

**Date of Order: 24<sup>th</sup> July, 2024**

**Attendance-Cum-Order Sheet of the Hearing.**

|                            |   |
|----------------------------|---|
| <b>NAME OF THE COMPANY</b> | <b>RAMESH HIRALAL SHARMA V/S<br/>MODI NAGAR PAPER MILLS LTD</b> |
| <b>UNDER SECTION</b>       | <b>7 IBC (IN CIRP)</b>  |

**COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:**

Sh. Sumit Shukla with  
Sh. Sanjeev Panda, Adv. : *For the Applicant in IA No.331/2022,  
IA No.95/2024 & Res. in IA No.106/2023*

Ms. Henna Jain, Proxy for  
Sh. Raina Birla, Adv. : *For the Res. No.3 in IA No.95/2024*

Sh. Sandeep Arora, Adv. : *For the Res./ Kotak Mahindra Bank in  
IA No.331/2022 & IA No.95/2024*

**ORDER**

**CP (IB) No.307/ALD/2019**

Ld. Counsels representing their respective parties are present.

- 1.** While hearing the matter, we have noted that in this case, the CIRP was initiated in terms of an order dated 06.04.2022, and since then no headway has been made in as much as there are no proposals received from any of the Prospective Resolution Applicants (PRAs).
- 2.** The absence of the PRAs, according the Ld. Counsel representing the RP, is attributable to the fact that there are no assets left as the sole asset, which was the security interest of the Kotak Mahindra Bank, has already been sold.

**-Sd-**

**-Sd-**

3. Nevertheless, more than two years have passed since the initiation of CIRP from the aforesaid date i.e. 06.04.2022.
4. The Ld. Counsel representing the Financial Creditor namely Kotak Mahindra Bank has taken us through a Resolution passed by the CoC in its meeting held on 23.09.2022, where the entire aspects pertaining to the pendency of the CIRP have been considered and eventually a Resolution was passed, which is placed at page no.110 and reads as under :-

*RESOLVED THAT the consent of the committee of creditor be and is hereby accorded for filing an application under section 33(2) of the Insolvency and Bankruptcy Code, 2016 for initiation of liquidation of the Corporate Debtor before the Hon'ble Adjudicating Authority.*

*RESOLVED FURTHER THAT Mr. Kamlesh Kumar Taneja, Resolution Professional is be and hereby authorized to file the application for initiation of liquidation of the Corporate Debtor before the Hon'ble Adjudicating Authority.*

*Approve – Votes 65%*

*Reject – Votes 35%*

*Abstain – Votes 0%*

*0 voter(s) have not voted.*

5. Despite the aforesaid Resolution having been passed, the RP has not come forward with any application as per the provisions of the Code for taking further action in view of above resolution of CoC as the CIRP period has already expired.
6. Keeping in view the above background, as the CIRP could not have been carried out for such a long period having no viable Resolution Plan in the absence of any assets of the Corporate Debtor. Under these given circumstances according the Ld. Counsel representing the Financial Creditor, the only way out was initiation of the liquidation, for which the Resolution was already passed.

*-Sd-*

*-Sd-*

7. However, since then no application has come forward from the RP and the Ld. Counsel representing the RP states that as per the voting result it is approved by 65%, whereas the 35% have rejected the same (comprising of two members of the CoC namely; Mr. Ramesh Hiralal Sharma and Nishyam Buildcon Private Limited), and zero (0%) have abstained.
8. In view of the above situation, let the RP be present in person either physically or through VC on the next date of hearing to clarify as to the future course of action, which needed to have been taken or initiated by him in pursuance of the aforesaid Resolution or otherwise, in accordance with the provisions of the Code, particularly under the circumstances, when there is no Resolution Plan coming forward and that by now the two years have already lapsed.
9. Let the matter be adjourned for further hearing on 8<sup>th</sup> August, 2024 along with all applications.

**-Sd-**

**(Ashish Verma)**  
**Member (Technical)**

**24<sup>th</sup> July, 2024**

*Kavya Prakash Srivastava*  
*(Stenographer)*

**-Sd-**

**(Praveen Gupta)**  
**Member (Judicial)**