

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2

Free of Cost Copy

136
10/03/2021

C.P. (I.B) No.844/NCLT/AHM/2019

Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 08.03.2021

Name of the Company: Alcock Ashdown(Gujarat) Ltd

Section 10 of the Insolvency and Bankruptcy
Code, 2016

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.				
2.				

ORDER

(through video conferencing/physical)

None appeared on behalf of parties.

The order is pronounced in the open court vide separate sheet.

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CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 08th day of March, 2021

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MANORAMA KUMARI
MEMBER JUDICIAL



**BEFORE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P.(IB) No. 844/NCLT/AHM/2019

In the matter of:

Mr. Mukul Anantrai Gandhi,
Managing Director of M/s. Alcock
Ashdown (Gujarat) Limited

Registered Office at:

Ramsar Works, Old Port,
Bhavnagar-364001

....Petitioner
(Corporate Applicant)

Order delivered on 08.03.2021.

Coram:

Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)

Appearance:

Advocate, Mr. Tirth Nayak,... for the Petitioner.
Advocate, Ms. Noopur K Dalal... for the Respondent.

ORDER

[Per se: Mr. Chockalingam Thirunavukkarasu, Member (T)]

1. M/s. Alcock Ashdown (Gujarat) Ltd., is a limited Company incorporated under the provisions of the Companies Act, 1956 on 05.09.1994 having CIN U74999GJ1994SGC022952 with objects of Ship-Building, Repairing and Reconditioning etc.
2. M/s. Alcock Ashdown (Gujarat) Ltd., in its meeting of Board of Directors held on 20.08.2019 resolved to file a petition under section 10 of the Insolvency and Bankruptcy Code, 2016 before the Adjudicating Authority for initiation of Corporate Insolvency Resolution Process. The Board of Directors also authorised Mr. M A Gandhi, Managing Director of the Company, to do all necessary acts and sign all petitions necessary under the



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Insolvency and Bankruptcy Code, 2016 before the Adjudicating Authority.

3. The Registered Office of the Company is at Ramsar Works, Old Port, Bhavnagar-364001. The Nominal Share Capital of Corporate Debtor is 51,10,00,070/- and Paid -Up Share Capital of the Corporate Debtor is Rs.51,10,00,070/-. The Corporate Applicant showed Government of Gujarat(GoG) as 'Unsecured Creditors' and had defaulted the total amount of Rs. 191,04,00,000/-. Further, the Corporate Applicant is also having outstanding dues in default of Financial Creditors namely, Sundry Creditors for Goods & Expenses for Rs. 500,154,541/-. The total outstanding due of Operational and Financial Creditors is Rs. 2,473,289,994/- which is reflected as **Annexure-E** at page no. 12 to 15 of the petition.
4. Corporate Applicant gave details of the Statement of Accounts of the Corporate Debtor for Financial Year 2017-18 and 2018-19, which are annexed with the application and marked as **Annexure-F** and **Annexure-G** respectively.
5. Corporate Applicant also gave details of List of Shareholders along with their shareholding and approval of the shareholders, which is attached as **Annexure-H**. The list of shareholders of the Applicant is at page no. 102 and it is evident from that, the Government of Gujarat and corporations controlled by Government of Gujarat are its sole shareholders. The Applicant submitted the statement of affairs of the Corporate Debtors detailing the list of assets and liabilities of the Corporate Debtor, which is attached as **Annexure-I** with the application.
6. The Applicant proposed the name of CA, Sunit Jagdishchandra Shah as 'Insolvency Resolution Professional', having address at 303, 3rd floor, Abhijeet-1, Mithakhali Six Roads, Navrang Pura,



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Ahmedabad-380 006 with Registration No. IBBI/IPA-001/IP-P00471/2017-18/10814 as 'Interim Insolvency Resolution Professional' under Section 13(1)(c) of the Code, along with the written consent in Form-2, which is annexed as **Annexure-D** at page no.9 of the petition.

7. Applicant filed proof of dispatch of Application to all Financial Creditors and Operational Creditors. This Adjudicating Authority directed the Applicant to issue Notice of date of hearing to Financial Creditors and Operational Creditors., Accordingly, the Applicant served notices on Financial Creditors and Operational Creditors and filed proof of service. The said notice was also published by the Petitioner in the State of Gujarat on 21.12.2019 in "**Divya Bhaskar** and the "**Times of India** on 20.12.2019. A copy of the same is attached in the additional affidavit filed by the Petitioner as **Annexure B Colly**.
8. The Applicant has filed an additional affidavit dated 03.02.2020, wherein, he has enclosed the copy of special resolution passed by the shareholders of the Corporate Debtor in their EOGM dated 29.08.2019 for filing application under Section 10 of the IBC. They have also attached the copy of the paper publication, list of creditors and the amount due to them and evidence to the of the notices sent to the creditors by registered post.
9. An affidavit dated 08.06.2020 is filed by Joint Secretary Industries Department, Government of Gujarat on behalf of Government of Gujarat stating that the Government of Gujarat issued a GR No. ALK/102018/323923/G along with the copy of the GR. It is further stated in the affidavits that Rs. 401.34 crores are payable by the Petitioner to the Government of Gujarat.



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10. On receipt of the notice, one Operational Creditor, M/s Arcadia Shipping & Trading Co. appeared and filed his objection in reply against this petition stating:

(i). that they have been dealing with the Petitioner since 2002-03(year) frequently in business as service providers for dredging at their shipyard and have undertaken works through tenders vide Tender No. ALK/PLG/CP.1/03/143 dated 27.05.2003 and vide Tender No. ALK/MD/465 dated 21.12.2004.

(ii). That they have dues of Rs. 8,17,74,756 (Principal Rs. 1,32,40,890 + interest @ 18% Rs. 6,85,33,866) recoverable from the Petitioner against the Tender No. ALK/PLG/CP.1/03/143 dated 27.05.2003 and vide Tender No. ALK/MD/465 dated 21.12.2004, security deposit and other details as per workings enclosed as **Annexure-B**.

11. The Petitioner has submitted in his written submissions against the reply of Operational Creditor, M/s Arcadia Shipping & Trading Co. that Mr. Piyush Vora who claims to be the Power of Attorney Holder of the said Partnership Firm i.e M/s Arcadia Shipping & Trading Co. stating that:

(i). The said Power of Attorney (at page no. 149 and 150 of the Reply) does not give power for specifically for affirming documents in legal proceedings. Therefore, the said affidavit is without property authority and the same ought not to be considered for this reason alone.



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- (ii). The alleged outstanding claimed are in respect of tenders dated 27.05.2003 and 21.12.2004. As per the terms therein, any bill raised by the Parties ought to be approved by the authorised person. There is no outstanding amount due to Arcadia Shipping and Trading Co. in the books of the Corporate Debtor and therefore their name is not reflected in the list of Operational Creditors of the Corporate Debtor.
- (iii). Without prejudice to what is stated hereinabove, the Insolvency Resolution Professional or any other appropriate authority may without being prejudiced by the list of Creditors submitted by the Corporate Debtor decide on the claims, including that of the M/s Arcadia Shipping and Trading Co, submitted by each party in accordance with law.
12. On receipt of the notice, an objection is raised on behalf of the workmen of Alcock Ashdown (Gujarat) Ltd., stating that without following due procedure of law required under Section 25(F) as well as Section-2 (O)(O) of the Industrial Dispute Act, the services of the workmen were orally terminated by giving a letter dated 29.06.2019 w.e.f. 30.06.2019.
13. It is further submitted by the workmen that they had approached the Hon'ble High Court of Gujarat by filing petitions praying to declare the termination illegal and further seeking the difference of retrenchment benefits as per the prevailing pay commission. The Hon'ble High Court vide orders passed in Special Civil Application 19305 of 2019 and other matters was pleased to direct the workmen to make representation to the company.

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14. The application is complete. Hence, we allow this application and admitted the Corporate Person, Alcock Ashdown (Gujarat) Limited, in Corporate Insolvency Resolution Process under Section 10 of the IB Code.
15. The claims of the objectors' M/s Arcadia Shipping and Trading Co and the workmen will be considered by the IRP/RP as per law.
16. The Interim Insolvency Resolution Professional is hereby directed to cause a public announcement of the initiation of 'Corporate Insolvency Resolution Process' and calls for submission of claims under Section 13(1)(b) read with Section 15 of the Code and Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
17. This Adjudicating Authority hereby order moratorium under Section 13(1)(a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;
 - (a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - (b). transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);



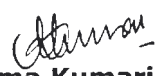
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- (d). the recovery of any property by an owner as lessor where such property is occupied by or in the possession of the Corporate Debtor.
- (2) The supply of goods and essential services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (3) The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
- (4) The order of moratorium shall have effect from the date of receipt of authenticated copy of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
18. This Adjudicating Authority hereby appoints CA, Mr. Sunit Jagdishchandra Shah having Registration No. IBBI/IPA-001/IP-P00471/2017-18/10814 to act as "Interim Insolvency Resolution Professional" under Section 13(1)(b) of the IB Code.
19. Accordingly, this petition is admitted and disposed of.
20. No order as to costs.
21. Communicate a copy of this order to the Corporate Applicant, and to all the Respondent Financial Creditors, and to the Interim Insolvency Resolution Professional.




Chockalingam Thirunavukkarasu
Adjudicating Authority &
Member (Technical)


Manorama Kumari
Adjudicating Authority &
Member (Judicial)

