

Through Videoconference

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH - COURT - II**

**IA 2593 of 2021**

**In**

**MA No. 1915 of 2019**

**In**

**CP No. 1506/MB/C-II/2017**

Under Section 60 (5) of Insolvency and Bankruptcy  
Code, 2016

**Preeti Agarwal,**

**... Resolution Professional/Applicant**

*In the matter of*

CP No. 1506/MB/C-II/2017

**Kapokh Fibres & Industries Limited**

**... Financial Creditor**

Versus

**Affloat Textiles (India) Limited**

**... Corporate Debtor**

**Order pronounced on 21.12.2021**

***Coram:***

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

***Appearance:***

For the Applicant : Mr. Nausher Kohli, Advocate.

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**ORDER**

*Per: Shyam Babu Gautam, Member*

1. This is an Application filed by **Preeti Agarwal** Resolution Professional of **Affloat Textiles (India) Limited**, Applicant (hereinafter referred to as the Applicant) Under Section 60 (5) of Insolvency and Bankruptcy Code, 2016 seeking modification of order dated 02 September, 2021 in MA 1915 of 2019.

**SUBMISSIONS ON BEHALF OF APPLICANT:**

2. The Corporate Insolvency Resolution Process of Affloat Textiles (India) Ltd. ("**corporate Debtor**") was commenced vide order dated February 29, 2017 passed by this Tribunal.
3. The first meeting of the Committee of Creditor (CoC) was held on March 13, 2018 wherein the Applicant gave the CoC a brief background of the Corporate Debtor and apprised the member of the CoC that there was no business in the Corporate Debtor since 2013.
4. The second meeting of the committee of Creditors was held on Jun 27,2018 when the members of the CoC voted in favour for initiating liquidation proceedings in respect of the Corporate Debtor.
5. The Applicant through its erstwhile advocate filed the miscellaneous application 1915 of 2019 under section 33(2) of the Insolvency and Bankruptcy Code, 2016 for initiating liquidation of the Corporate Debtor.
6. The miscellaneous application 1915 of 2019 was heard by this Tribunal on September 02,2021 when the erstwhile Tribunal was wrongly

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represented that the captioned miscellaneous application was filed by the liquidator for seeking dissolution of the Corporate Debtor.

7. The miscellaneous application 1915 of 2019 again was listed on October 07, 2021 before this Tribunal when the Tribunal was apprised that the captioned miscellaneous application was filed under section 33(2) of the Code for liquidation of the Corporate Debtor by the Resolution Professional of the Corporate Debtor. It was clarified to this Tribunal that the erstwhile advocate erroneously misrepresented before this Tribunal on September 02, 2021 that the miscellaneous application was filed by the liquidator for dissolution of the Corporate Debtor.
8. In view of the above, the Tribunal directed to applicant to file this application seeking modification of the order dated September 02, 2021 and for putting the consent form of the resolution professional to act as the liquidator on record.
9. We have perused the records, it is observed that Applicant misrepresented the facts on 02<sup>nd</sup> September 2021 in terms of that consequential order was passed on 02<sup>nd</sup> September 2021. Therefore, this bench modifies Orders dated 02<sup>nd</sup> September 2021, as follows in the said order Applicant's appearance is mark as 'Liquidator' instead it may be read as 'Resolution Professional'.

Other direction in regard to compliance in terms of dissolution stands withdrawn as the same was directed on the basis of wrong submissions by Applicant about status of the Corporate Debtor.

10. The above modification is allowed subject to payment of Cost of Rs.1,000/- to be paid in "BHARAT-KOSH" by Applicant within 7 days.

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11. With the above observations and directions IA 2593 of 2021 is disposed of.

**Sd/-**  
**SHYAM BABU GAUTAM**  
**Member (Technical)**

21.12.2021

SAM

**Sd/-**  
**JUSTICE P. N. DESHMUKH (RETD.)**  
**Member (Judicial)**