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IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)
(Through Physical Hearing/ VC Mode (Hybrid))

IA No.316/2023
in
C.P. (IB) No.47/BB/2022
(Admitted Matter)
Application under Section 33 read with 60 Sub-Section 5
of the Insolvency and Bankruptcy Code, 2016
and Rule 11 of the National Company
Law Tribunal Rules, 2016

In the matter of I.A No.316/2023:-

Shri. Vishal Ghisulal Jain
Resolution Professional of
Bhadragiri Power Private Limited

...Applicant

In the decided matter of:

Indian Renewable Energy Development
Agency Ltd.,

... Petitioner /Operational Creditor

VERSUS

Bhadragiri Power Private Limited

... Respondent/Corporate Debtor

Order delivered on:23rd August, 2024

Coram: 1. Hon'ble Shri. K. Biswal, Member (Judicial)
2. Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the RP : Shri Aniruth Purushotham

ORDER

Per: K. Biswal, Member (Judicial)

1. This Application has been filed by the **Applicant** under Section 33 read with Sub- Section (5) of Section 60 of the Insolvency and Bankruptcy Code, 2016,



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read with rule 11 of the National Company Law Tribunal Rules, 2016 for passing order of Liquidation of Corporate Debtor, Bhadragiri Power Private Limited and appoint Shri Vishal Ghisulal Jain, the Applicant as the Liquidator of the Corporate Debtor.

2. C.P (IB) No.47/BB/2022 filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 by "*Indian Renewable Energy Development Agency Limited*" to initiate Corporate Insolvency Resolution Process (**in short 'CIRP'**) against *Bhadragiri Power Private Limited* was admitted on 02.12.2022 and Shri Vishal Ghisulal Jain was appointed as Interim Resolution Professional (IRP) of the Corporate Debtor.
3. After receiving the Order, the IRP issued a Public Announcement in the newspapers in Form-A on 21.12.2022 as per Regulation 6 of the Insolvency Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016. It is submitted that the IRP constituted the Committee of Creditors (CoC) and filed a report before this Tribunal in terms of Regulation 13 (2) (d) of the Insolvency Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, dated 11.01.2023.
4. It is stated that only the Financial Creditor, Indian Renewable Energy Development Agency Limited, submitted the claims and is the only member of the CoC of the Corporate Debtor with 100% voting rights. The first meeting of the CoC was held on 18.01.2023. The copy of the minutes of 1st CoC meeting dated 18.01.2023 is annexed as Exhibit-B to the application.
5. As per CIRP timelines, the Applicant appointed two registered valuers viz., Crest Valuation Services Private Limited and G-Tech Valuers Private Limited to determine and submit the fair and liquidation value of the all three classes of the Corporate Debtor in accordance with Regulations 27 and 35 of the Insolvency Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016.



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6. The 2nd meeting of the CoC was held on 06.02.2023 in which the CoC unanimously rejected the resolution to explore the option of Compromise or Arrangement. Further, in the same meeting, the CoC has unanimously resolved to liquidate the Corporate Debtor under the provisions of the IBC. Hence the instant application is filed.

7. Sub-Sections (1) and (2) of Section 33 of the Code provide as follows:-

“33. Initiation of liquidation.-

(1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).”



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8. **Prescribed period for filing application-** In the present case, the Petition under Section 7 read with Rule 4 of the Insolvency and Bankruptcy Code, 2016 was admitted on 02.12.2022. The present Application is filed on 17.04.2023 i.e., before the expiry of the CIRP period. Hence, this application shall be considered under sub-section (2) of Section 33 of the Insolvency and Bankruptcy Code, 2016.
9. **Appointment of Liquidator:** It is submitted that the Members of CoC in their 2nd meeting held on 06.02.2023 unanimously approved the appointment of Shri Vishal Ghisulal Jain as Liquidator of the Corporate Debtor as per section 34 of the Insolvency and Bankruptcy Code. Additionally, the Applicant has also given his written consent dated 25.01.2023 to act as the Liquidator of the Corporate Debtor. Therefore, **Shri. Vishal Ghisulal Jain with Registration No. IBBI/IPA-001/IP-P00419/2017-2018/10742** is appointed as the Liquidator.
10. We have carefully considered the submissions made in the application by the Applicant and have also perused the records.
11. Relevant aspects under Regulations 39B, 39C and 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are examined hereunder:
- (a) Pursuant to Regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation 2016, the CoC in its 2nd meeting held on 06.02.2023 approved the estimated Liquidation cost of Rs. 18,36,000/- plus taxes.
- (b) As per Regulation 39C of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, the members of the CoC in its 2nd meeting held on 06.02.2023 approved the sale of Corporate Debtor as a going concern. Therefore, the Liquidator is directed to follow the Regulation 32 of the Insolvency Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and take necessary action.



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(c) The fee payable to the Liquidator shall be as per the fee table as per Regulation 4 (2) of the Insolvency Bankruptcy Board of India (Liquidation Process) Regulations 2016.

12. **Pending applications, if any, and its effects:** This Adjudicating Authority on 12.09.2023 directed the Counsel for the RP to file affidavit about the status of pending litigations against the Corporate Debtor. Pursuant to the same, the Applicant has filed an additional affidavit vide Dy.No.5252 dated 12.10.2023 stating that there is no material litigations pending against the Corporate Debtor.
13. In view of the satisfaction of the conditions provided under Section 33 (2) of the Code, the Corporate Debtor **Bhadragiri Power Private Limited to be liquidated** in the manner as laid down in Chapter III of the Code. Some of the directions are noted as under:
- (i) That as per Section 33 (5) of the Code and subject to Section 52 of the code, no suit or other legal proceedings shall be instituted against the corporate Debtor, except with the prior approval of the Adjudicating Authority;
 - (ii) That the provisions of sub-section (5) of Section 33 of the Code shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
 - (iii) That this order of liquidation under Section 33 of the Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator;
 - (iv) That all the powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator;



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- (v) That the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provision of Section 19 of the Code shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the Interim Resolution Professional.
- (vi) That the Liquidator shall publish public announcement in accordance with Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and in Form B of Schedule II of the said Regulations within five days from receipt of this order calling upon the stake holders to submit their claims as on liquidation commencement date and provide the last date for submission of claim which shall be 30 days from the liquidation commencement date.
- (vii) That the announcement shall be published in accordance with Regulation 12(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (viii) That the 'Liquidator' shall file his preliminary report within 75 days and to file regular progress reports as per Regulation 15 thereafter in accordance with Regulation 13 of the Insolvency and Bankruptcy Board of India (Liquidation Process), Regulations, 2016,.
14. Accordingly, **I.A No. 316 of 2023 stands disposed of.**
15. Copy of this order be supplied to the counsel for the Liquidator as well as to the Registrar of Companies, Bengaluru forthwith. The Registry is also directed to send a copy of this order to the Liquidator at his e-mail address.

Sd/-
(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

Sd/-
(K.BISWAL)
MEMBER (JUDICIAL)



**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

[Signature]
DEPUTY/ASST. REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
Bengaluru Bench