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**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH-I, CHENNAI**

**IA/889/CHE/2021 in IBA/446/IB/2019**

*(filed under Sections 33 (2) of the Insolvency and Bankruptcy Code,  
2016)*

*In the matter of **Terra Energy Limited***

**Shri. R. Raghavendran**  
*Resolution Professional*  
of Terra Energy Limited  
Flat No. 3, Dhruvatara Apartments,  
241, Dr. Rajendra Prasad Road,  
Tatabad  
Coimbatore- 641 012.

*... Applicant/ Resolution Professional*

*Order pronounced on 17<sup>th</sup> February, 2022*

CORAM:

**R. SUCHARITHA, MEMBER (JUDICIAL)**  
**SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Applicant : B. Dhanraj, Advocate*

**ORDER**

**Per: R. SUCHARITHA, MEMBER (JUDICIAL)**

This Application IA/889/CHE/2021, is filed under Section 33 (2) of IBC, 2016 by the Resolution Professional of the Corporate Debtor herein Viz., Terra Energy Limited seeking the following reliefs: -



- a) *Pass an Order of Liquidation of the Corporate Debtor "Terra Energy Limited" under Section 33(2) of I&B Code, 2016 as resolved in the 11thCoC Meeting dated 25.08.2021.*
- b) *Appoint Mr. Ramakrishnan Sadasivan as the Liquidator of the Corporate Debtor "M/s. Terra Energy Limited" as resolved in the 11thCoC Meeting dated 25.08.2021.*
- c) *Pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.*

2. In IBA/446/2019 filed under Section 9 of the IBC, 2016 by Unitech Sales Agency against the Corporate Debtor herein for initiation of Corporate Insolvency Resolution Process (hereafter 'CIRP') was admitted by this Tribunal in order dated 20.11.2019 appointing Mr.C.Sanjeevi as the Interim Resolution Professional. Further, in the 1<sup>st</sup> COC meeting held on 03.01.2020 the Applicant herein was appointed as the Resolution Professional of the Corporate Debtor and the same was confirmed by this Tribunal in order dated 12.11.2020.

3. In IA/139/CHE/2021 filed, in accordance to the Resolution passed in the 4<sup>th</sup> COC meeting for exclusion of COVID Lockdown period of 221 days from 25.03.2020 to 31.10.2020 with consequential extension of CIRP period till 25.12.2020 and for further extension of 90 days from 26.12.2020 till 25.03.2021, this Tribunal in order dated 09.03.2021 allowed the said Application.



4. That the erstwhile Interim Resolution Professional Mr. C. Sanjeevi failed to cooperate with the Applicant herein and did not handover the relevant documents, Books of Accounts of the Corporate Debtor. Thus, IA/141(CHE)/2021 was preferred by the Applicant for the failure to handover the relevant documents of the Corporate Debtor and this Tribunal by its Order dated 09.03.2021 directed the said erstwhile IRP to furnish all relevant details and documents and disposed of the said matter.

5. That as resolved in the 6<sup>th</sup> CoC Meeting held on 18.03.2021, an Application IA/301/2021 was filed before this Tribunal seeking to exclude the COVID Pandemic period of 61 days from 01.11.2020 till 31.12.2020 with consequential extension of the 270th day to 25.03.2021 and further extend another 60 days till the 330th day on 24.07.2021 and this Tribunal vide order dated 13.07.2021 allowed the said Application IA/301/2021.

6. It was submitted by the Ld. Counsel for the Applicant that significant part of the Plant and Machinery of the Corporate Debtor is at Thirumandankudi Unit where the Plant of the Parent Company M/s.Thiru Arooran Sugars Ltd., is located and the said parent



company is already under liquidation by this Tribunal order dated 08.04.2021.

7. Further, the Ld. Counsel for the Applicant submitted that, in the 6<sup>th</sup> COC meeting held on 18.03.2021, it was resolved to appoint a Third-party expert to consider the Corporate Debtor's Co-Gen plants as Standalone Power Generating Company.

8. Thereafter, in the 8<sup>th</sup> COC meeting held on 20.04.2021, the COC members with 59.16% Voting Rights namely, State Bank of India with 48.23% voting rights, ICICI Bank with 1.84% voting rights and UCO Bank with 9.09% voting rights, recommended for Liquidation of the Corporate Debtor directly.

9. Incidentally, in the 8<sup>th</sup> CoC Meeting dated 31.05.2021, the Members of the CoC with 61.32% Voting Rights i.e., SBI (48.23%), TNPL (11.25%) and ICICI Bank (1.84%), decided for proceeding with Liquidation directly without undergoing the process of calling for EOI. Further, the UCO Bank with 9.09% voting sent their mail 02.06.2021 confirming that they were in favor of proceeding with Liquidation directly. Thus, COC with 70.41% of the Voting share



resolved to proceed with Liquidation of the Corporate Debtor directly.

10. Subsequently, in the 9<sup>th</sup> COC meeting held on 29.06.2021, Union Bank of India with a voting share of 1.99% w.e.f. 31.05.2021 was inducted into the COC as an unsecured Financial Creditor. Further in the 9<sup>th</sup> COC meeting, it was resolved with 69.01% to go for direct Liquidation.

- a. *Resolved to recommend for Liquidation of the CD U/s. 33(2) of the IBC, 2016 without undertaking the EOI process as proposed by some members of the CoC*
- b. *Further resolved to authorize the Resolution professional to file the application to the Hon'ble NCLT the result of the Voting as the decision of the CoC U/s. 33(2) of the IBC 2016.*

11. Further, it was submitted by the Ld. Counsel for the Applicant that, this Tribunal in IA/704/CHE/2021 with an order dated 06.08.2021, extended the CIRP period of the Corporate Debtor till 31.08.2021, considering the fact that the Resolution for recommendation for Liquidation was already passed.

12. Subsequently, it is submitted by the Ld. Counsel for the Liquidator that the Resolution to Liquidate the Corporate Debtor without EoI process passed with 74.27% and the Liquidator



appointment and Liquidators fees were passed unanimously in the 11<sup>th</sup> COC meeting held on 25.08.2021.

13. Heard the submissions of the Learned Applicant Counsel. It can be seen from the minutes of 11<sup>th</sup> COC meeting held on 25.08.2021 that 74.27% of the CoC has resolved in favor of direct Liquidation without the EOI process.

14. Apropos, it can be seen that it satisfies the mandate of 66% voting share under Section 33 (2) of the IBC, 2016. The Section 33 (2) of the IBC, 2016 is extracted hereunder: -

**Section 33 (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 approved by not less than sixty-six percent of the voting share 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)."

15. It is also seen from the records that the Applicant herein has annexed the written consent of Mr. Ramakrishnan Sadasivan in Form AA to act as the Liquidator of the Corporate Debtor and further the said Mr. Ramakrishnan Sadasivan has also placed on record the



Authorization for Assignment (AFA) issued by the Insolvency Professional Agency of Institute of Cost Accountants of India.

16. In the circumstances, **Mr. Ramakrishnan Sadasivan** ([sadasivanr@gmail.com](mailto:sadasivanr@gmail.com)) is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;



- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking



necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

17. The application IA/889/CHE/2021 stands **allowed** with the aforesaid directions.

-Sd-  
**SAMEER KAKAR**  
MEMBER (TECHNICAL)

-Sd-  
**R. SUCHARITHA**  
MEMBER (JUDICIAL)

*Vinita Varshini*