

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI**

IA/880 (CHE)/2021

in

IBA/1075/2019

(filed under Section 33 (1)(a) and 34 (1) Read with Section 60(5) of the
Insolvency and Bankruptcy Code, 2016)

In the matter of ***M/s. Krishnaa Energy Private Limited***

Mr. B. Ramana Kumar

Resolution Professional of

M/s. M/s. Krishnaa Energy Private Limited

... Applicant /Resolution Professional

Order Pronounced on 6th January 2022

CORAM

**Justice (Retd.) S.RAMATHILAGAM, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Applicant : *R. Umasuthan, Advocate*

ORDER

Per: ANIL KUMAR B, MEMBER (TECHNICAL)

This is an application filed under Section 33(1)(a) and 34 (1)
Read with Section 60(5) of the Insolvency and Bankruptcy Code
2016 (in short 'IBC, 2016') seeking relief as follows:

- i. To Order Liquidation of the Corporate Debtor M/s. Krishnaa Energy Private Limited under Section 33 of Insolvency and Bankruptcy Code 2016 and*
- ii. to appoint Mr. B. Ramana Kumar, the Resolution professional of the Corporate Debtor as Liquidator for the purpose of Liquidation of Debtor M/s. Krishnaa Energy Private Limited as approved by the CoC.*

2. An application in IBA 1075 of 2019 was filed by the Corporate Debtor under section 10 of *Insolvency and Bankruptcy Code, 2016* for the purpose of initiation of CIRP in the capacity as a Corporate Applicant. This Tribunal vide order dated 22.11.2019 passed an order admitting the application for initiation of CIRP and has appointed the Applicant herein as the Interim Resolution Professional (IRP).

3. It is averred in the application that pursuant to the Applicant having been appointed as IRP, public announcement was caused, subsequent to which he has constituted the CoC comprising three members as follows,

1. *Canara Bank - 95.52%*
2. *A.N. Suresh - 2.42%*
3. *Neena Suresh - 2.42%*

Thereafter, it is submitted that the IRP has planned to convene the 1st Meeting of the CoC on 20.12.2019, wherein the dominant member Canara Bank was unable to attend the 1st CoC meeting on the said date subsequently; the same was postponed and held on 26.12.2019. It is further submitted that the 2nd CoC meeting was held on 24.01.2020, in which the CoC decided to appoint one Mr. A. Arumugam as the Resolution Professional. Due to Covid-19 and other reasons the appointment of the proposed RP could not be confirmed by this Tribunal, as a result of which the applicant herein continued as the Deemed Resolution Professional of the Corporate



Debtor. It is further averred that, pursuant to the inordinate delay in appointment of the RP, the applicant herein has convened the 3rd CoC meeting on 21.01.2021, in which the CoC has confirmed the applicant herein as the Resolution professional of the Corporate Debtor.

4. In its 4th meeting held on 03.03.2021, the CoC has urged that a separate meeting shall be convened for the purpose of deciding on liquidation of the Corporate Debtor considering the fact that the corporate debtor is inactive since 2017. Further, in the 5th CoC meeting held on 15.03.2021, no prospering decision was made as the dominant member of the CoC did not vote for Liquidation. It is observed from the minutes of the 5th CoC meeting dated 15.03.2021, that the Corporate Debtor is not running its business since July 2017 and has no resolution plan due to non-availability of machineries and labors.

5. It is further averred in the application that in the 6th CoC meeting which was held on 11.06.2021, upon brief explanation on liquidation of the Corporate Debtor the majority has approved Liquidation of the Corporate Debtor. It is further submitted that the applicant herein has given his letter of consent to act as the Liquidator of the Corporate Debtor which was also accepted approving the name of the applicant herein as the 'proposed

Liquidator 'by the CoC. It is further averred that the CoC has also approved the tentative expenses of the proposed liquidation of the Corporate Debtor and the fee of the Liquidator as per Rule 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

6. Heard the submissions made by the Learned Counsel for the Applicant, it is seen that the Applicant has given his consent in Form AA and has also produced the Authorization of Assignment (AFA) issued by the Indian Institute of Insolvency Professional of ICAI which is valid till 12.12.2021, however, on verification in the IBBI website the AFA is renewed and is found to be valid till **12.12.2022**. In view of the facts as described in the minutes of the 5th CoC meeting dated 15.03.2021, that the Corporate Debtor is not running its business since July 2017 and has no resolution plan due to non-availability of machineries and labors the CoC by its commercial wisdom has decided to liquidate the Corporate Debtor. Accordingly, this Tribunal is hereby ordering for Liquidation of the Corporate Debtor, by appointing **Mr. B. RAMANA KUMAR** with ICAI registration number **(IBBI/IPA-001/IP-P00657/2017-2018/11140)** (**Email-ramanakumar@ovopaxlegal.com**) as the Liquidator of the Corporate Debtor and 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 him.
- 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 such period prescribed 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 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.
7. The application IA/880(CHE)/2021 stands **disposed of** with the aforesaid terms.

-Sd-
B. ANIL KUMAR
MEMBER (TECHNICAL)

-Sd-
Justice (Retd.) S. RAMATHILAGAM
MEMBER (JUDICIAL)

Mohana Priya R