

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 14-09-2021 AT 2.30 P.M THROUGH
VIDEO CONFERENCING:

PRESENT: SMT. R. SUCHARITHA, MEMBER (JUDICIAL)
SHRI B. ANIL KUMAR, MEMBER (TECHNICAL)

APPLICATION NUMBER : IA/1123(CHE)2020 IN

PETITION NUMBER : IBA/1062/2019

NAME OF THE PETITIONER : Renuka Devi Rangaswamy (RP) M/s Rocanna
Infrastructure Pvt Ltd

NAME OF THE RESPONDENTS :

UNDER SECTION : Sec 33(2) & 60 (5) of IBC, 2016

(310)

[IA/1123(CHE)2020 IN IBA/1062/2019]

ORDER

Learned Counsel Mr. A. Srivastava for the Applicant/RP is present.

In IA/1123(CHE)/2020, order of liquidation was passed by this Adjudicating Authority on 16.04.2021.

By e-mail dated 27.04.2021, IBBI has confirmed the name of Mr. L. Bhadri (IP Registration No.IBBI/IPA-001/IP-P02059/2020-2021/13245) as liquidator.

Hence, this Adjudicating Authority appoints Mr. L. Bhadri as liquidator in the above matter.

Accordingly, this IA/1123(CHE)/2020 is hereby **allowed**.

The Registry is directed to communicate the order to the liquidator.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

sr

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI NATIONAL COMPANY LAW TRIBUNAL, HELD ON 16-04-2021 AT 10.30 A.M THROUGH VIDEO CONFERENCING:

PRESENT: SMT. R. SUCHARITHA, MEMBER (JUDICIAL)
SHRI B. ANIL KUMAR, MEMBER (TECHNICAL)

APPLICATION NUMBER : IA/1123(CHE)/2020
IN
PETITION NUMBER : CP (IB)/1062(CHE)/2019
NAME OF THE PETITIONER : Renuka Devi Rangaswamy (RP)
M/s Rocanna Infrastructure Pvt Ltd
NAME OF THE RESPONDENTS :
UNDER SECTION : Sec 33(2) & 60 (5) of IBC, 2016

ORDER

Order pronounced in the Open Court. In IA/1123(CHE)/2020, order of liquidation passed.

The Registry is directed to forward copy of the order to IBBI for appointment of another RP as Liquidator.


[B. ANIL KUMAR]
Member (Technical)


[R. SUCHARITHA]
Member (Judicial)

vs

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

IA/1123(CHE)/2020 in IBA/1062/2019
filed under Section 33 (2) read with
Section 60 (5) of the Insolvency and
Bankruptcy Code, 2016.

In the matter of M/s. Rocana Infrastructure Private Limited

Mrs. Renuka Devi Rangaswamy
(Resolution Professional of
M/s. Rocana Infrastructure Private Limited)
Arthi Illam, No.9, Jothi Nagar,
3rd Street, Uppilipalayam (Post),
Coimbatore – 641 015

..... Applicant/RP

Coram:

R.SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

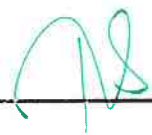
For the Applicant/RP : *Shri. V. Prakash, Advocate*

ORDER

Per: R.SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 16.04.2021

This Application has been filed under Section 33 (2) read with
Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 by the



Applicant/RP **Mrs. Renuka Devi Rangaswamy** seeking relief as follows:

“Pass an Order directing liquidation of the Corporate Debtor i.e. Rocana Infrastructure Private Limited in the manner as laid down in Chapter III of the IBC”.

2. The Counsel for the Applicant states that the main IBA/1062/2019 was filed by one Mr. B. Madhav, Practising Company Secretary under Section 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process (“CIRP”) on the ground that the Corporate Debtor namely M/s. Rocana Infrastructure Private Limited had defaulted in paying an amount of Rs.2,83,185/- (Rupees Two Lakhs Eighty Three Thousand One Eighty Five Only) for the secretarial services rendered by the Operational Creditor. By order dated 20.01.2020, this Adjudicating Authority ordered for commencement of CIRP by appointing the Applicant herein **Mrs. Renuka Devi Rangaswamy** as Interim Resolution Professional.



3. The Counsel for the Applicant states that he has issued advertisement of the initiation of CIRP as against the Corporate Debtor and calling for claims was published by the Applicant one in English Daily "The New Indian Express" and another in Tamil Daily (Vernacular) language "Dhinamani" at the Chennai Edition both dated 25.01.2020.

4. The Counsel for the Applicant states that the Applicant conducted a meeting with the suspended directors of the Corporate Debtor on 28.01.2020, whereon, the Applicant was informed that the Corporate Debtor has not been pursuing any business. On perusal of the response submitted by the suspended director on 04.02.2020, it was evident that the Corporate Debtor has no fixed assets as on the date of commencement of CIRP. The copies of letter dated 30.01.2020 addressed to the suspended director of Corporate Debtor and response dated 04.02.2020 by suspended director are annexed herewith by the Applicant as Annexure A-5 and A6 respectively.



5. The Counsel for the Applicant states that the 1st CoC meeting was scheduled on 17.02.2020 at the premises of Income Tax Department and the same was not conducted due to the non-cooperation of the only Operational Creditor and the Applicant had to adjourn the meeting to 18.02.2020. Even on 18.02.2020, neither this Operational Creditor nor the suspended directors of the Corporate Debtor turned up to the meeting.

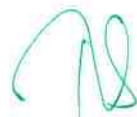
6. After the constitution of CoC, the Applicant also received claim from M/s. Siva Industries and Holdings Limited (“SIHL”) through its Resolution Professional on 14.02.2020. The CoC was reconstituted with a sole Financial Creditor namely SIHL through its RP with 100% voting rights and the Applicant proposed to hold the 1st CoC meeting on 10.03.2020. The meeting again adjourned and the same was conducted on 20.03.2020 through Audio Conference at 17.30 hours without the physical presence of the sole Financial Creditor due to the unprecedented Covid-19 pandemic.



7. The Applicant Counsel further submits that the sole member of the CoC represented by its RP informed the Applicant about the decision to initiate Liquidation proceedings against the Corporate Debtor as per Section 33(2) of the IBC due to nil cash flow of the Corporate Debtor and absence of assets for realization. The minutes of the 1st CoC meeting is extracted hereunder:

“The representative enquired about the cash flow situation, to which the IRP mentioned that the same is Nil. The CoC representative then mentioned that since there are no assets for realization, action may be initiated to Liquidate the CD Company straightway as per the provision contains under Section 33(2) of Insolvency and Bankruptcy Code, 2016. Further the CoC member representative confirmed to the Chairman this may be taken as 100% voting and requested the Chairman to take necessary appropriate action to proceed further for filing liquidation petition before the Hon’ble NCLT”.

8. The Applicant Counsel further submits that the only member of the CoC also voted to appoint the Applicant as the Resolution Professional of the Corporate Debtor in the 1st CoC meeting held on 20.03.2020. The Applicant was unable to proceed with the immediate filing of liquidation application before this Adjudicating Authority



due to the prevailing Covid-19 pandemic and the lockdown restrictions.

9. The Applicant Counsel further states that the Applicant is indisposed to act as a liquidator and hence prayed this Adjudicating Authority to appoint a Liquidator in accordance with Section 34(5) of the IBC.

10. The Applicant Counsel further submits that in the said CoC meeting, it was decided to file an application before this Adjudicating Authority for liquidation of the Corporate Debtor.

11. In this case, the learned counsel for the Applicant submitted that the Applicant/RP is not willing to continue as Liquidator. In this circumstance, this Adjudicating Authority as per Section 34(5) of the IBC, 2016 hereby directs the Insolvency and Bankruptcy Board of India (IBBI) to propose the name of another Insolvency Professional to be appointed as a Liquidator and IBBI as per Section 34(6) of the IBC, 2016, shall propose the name of another Insolvency Professional

along with written consent from the Insolvency Professional in the specified form within 10 days from the date of receipt of this order.

12. Upon the name being proposed by the IBBI for the appointment of an Insolvency Professional as a liquidator, the above **IA/1123(CHE)/2020** shall be taken up for passing consequential directions in relation to the order of liquidation, hereby ordered by appointing such Insolvency professional to be proposed by IBBI as the liquidator in terms of the above directions.

13. Post this **IA/1123(CHE)/2020** for further orders on **26.04.2021**

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

sr