

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(PHYSICAL HEARING)

CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)

CORAM: SHRI CHARAN SINGH - HON’BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 10.01.2023 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA 1395/2022 in CP(IB)No.148/7/HDB/2021
NAME OF THE COMPANY	Viom Infra Ventures Pvt. Ltd.
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	7 of IBC

ORDER

This application is allowed and disposed of vide separate orders.

**Sd/-
MEMBER (T)**

**Sd/-
MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II, HYDERABAD**

**I.A. No. 1395/2022 in
C.P. (IB) No. 148/7/HDB/2021
Under Section 33(1)(a) of the IB Code, 2016**

**In the matter of
M/S VIOM INFRA VENTURES LIMITED**

Mr. Jitendra Lohia,
Applicant of Viom Infra Ventures Limited,
2/7, Sarat Bose Road,
Vasundhara Building, 2nd Floor,
Kolkata – 700 020.

...Applicant

Date of Order: 10.01.2023

Coram:

Justice Telaprolu Rajani, Member, Judicial
Sri Charan Singh, Member, Technical

Counsel present:

For the Applicant : Mr. Amir Bavani, Advocate

Heard on : 09.01.2023

Per : Bench

ORDER

1. This Application is filed seeking for an Order requiring the Corporate Debtor to be liquidated and to appoint Mr. Jitendra Lohia as the Liquidator.

2. The brief facts of the case are as follows:
 - a. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor (CD) vide order dated 23.09.2021 of this Tribunal.

 - b. Mr. Jitender Lohia was appointed as Interim Resolution Professional (IRP). He commenced the CIRP and called for claims by way of public announcement. On receipt of claims, he constituted the Committee of Creditors (CoC) on 26.10.2021. List of Creditors and report of constitution of CoC was submitted to the NCLT. First CoC meeting was held on 01.11.2021. The appointment of the IRP was confirmed as Resolution Professional (RP). Time for CIRP was extended time and again. On 11.12.2021 an invitation for Expression of Interest (EoI) was issued by the RP, fixing the last date as 27.12.2021. Eleven prospective bidders have shown interest, but only Four submitted their EoIs within the prescribed date. Some of the Resolution Applicants who could not submit their EoIs in due time, requested the Applicant to extend

the date. As such another Form G was issued on 03.01.2022, to see that more people could participate in the resolution process, which would in turn maximize the value of resolution of the Corporate Debtor. Five additional prospective bidders had shown interest, but only four submitted their EoIs. The provisional list of prospective resolution applicants was issued on 20.01.2022. Altogether 13 CoC meetings were conducted by the time of filing this Application. Only one Resolution Plan from RKG Fund was received on 26.05.2022, which was placed before the CoC in its 8th CoC meeting. The CoC Members requested to send a copy of the Plan to them in order to look at the same and discuss with their internal teams. Thereafter, the applicant called the 9th CoC meeting on 09.08.2022. The Plan was discussed at length and was found to be not feasible and viable by the members of the CoC, hence the same was rejected in 10th CoC meeting. The Applicant called for 12th CoC meeting with an intention to further negotiate with the Resolution Applicant, but even after detailed discussion, no further improvement was made in the Resolution Plan. In the 11th CoC meeting, while advising to file application for exclusion of 60 days, it was discussed that although the company is non-operational for last two years and that almost all the assets of the company have been disposed of and currently no substantial movable and immovable assets left in the company, there are several litigation and

arbitration cases which could yield substantial recovery towards interest of all the stakeholders. As such, it was discussed that as a final resort, if additional exclusion of 60 days is granted for re-negotiation with the resolution applicant, he may enhance the value to all the stakeholders.

- c. The applicant filed three applications which are still pending. The applicant reported the progress of the CIRP regularly to NCLT. The 13th CoC meeting was held on 14.11.2022. It was decided by the committee that, since no resolution plan is before the CoC which could be considered within the maximum permissible CIRP period and since the sole resolution applicant failed to improve the resolution plan inspite of negotiations, there is no option but to Liquidate the Company u/s 33(1)(a) of IBC, 2016. The CoC has further decided to sell the company as per Regulation 39C of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The CoC has approved the appointment of Mr. Jitendra Lohia, the applicant as the liquidator and the applicant has given consent for the same.
- d. In terms of amendment dated 16.09.2022, new regulation 39BA was inserted for exploring the possibility of compromise or arrangement. However, no recommendation was received till the date of filing this application.

3. Hence, this application seeking for an order requiring the Corporate Debtor to be liquidated.
4. We have heard the Counsel appearing for the Liquidator. A perusal of the contents of the application would show that the Resolution Professional has made his best efforts to keep the Corporate Debtor as a going concern, but since no Resolution Plan, which was viable, was received, the CoC with 100% voting has recommended for liquidation of the Corporate Debtor.
5. From the above, it would appear that despite all possible steps as required under the Code, taken during the CIRP, the CoC did not receive any viable proposal for revival of the Company.

ORDER

6. In view of the facts stated in the Application, this Tribunal allows the Application with the following directions.
 - a) Mr. Jitendra Lohia (Registration No. IBBI/IPA-001/IP-P00170/2017-18/10339), having office at 2/7, Sarat Bose Road, Vasundhara Building, 2nd Floor, Kolkata – 700020, **e-mail:cirp.vivl@gmail.com, Mobile No.9874044000** is appointed as the Liquidator. No disciplinary proceeding is pending against him as per the IBBI website.

- b) He shall issue public announcement stating that Corporate Debtor is in Liquidation.
- c) The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- d) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however 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.
- e) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- f) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- g) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- h) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.

- i) This Order 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.
- j) Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Telangana, the Registered Office of the Corporate Debtor; and the Liquidator.

7. With the above directions **IA.No.1395/2022 in CP (IB) No.148/7/HDB/2021** is allowed and stands disposed of.

Sd/-
(Charan Singh)
Member, Technical

Sd/-
(Justice Telaprolu Rajani)
Member, Judicial