

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

IA No.773/2019

In

CP(IB)No.296/7/HDB/2018

In the matter of:-

Mr. U. Balakrishna Bhat
Resolution Professional of Lanco Babandh Power Limited.,
SMSR & Co. LLP, 005-A Wing,
Western Edge II, Off Western Express Highway,
Borivali (E) Mumbai - 400 089.

...Applicant/Resolution Professional

In the matter of:

ICICI Bank Limited
Regd. Office at ICICI Bank Tower,
Near Chakli Circle, Old Padra Road,
Vadodara - 390 007, Gujarat State.

...Original Petitioner/Financial Creditor



Lanco Babandh Power Limited.,
Regd. Office at Lanco House, Plot No.4, Software Units Layout,
HITECH CITY, Madhapur,
Hyderabad, Telangana - 500 081.

...Original Respondent/Corporate Debtor

Order pronounced on: 27.11.2019

Coram: K. ANANTHA PADMANABHA SWAMY, MEMBER JUDICIAL
Dr. BINOD KUMAR SINHA, MEMBER TECHNICAL

Parties/Counsel Present:

Mr. B. Harinath Rao, Advocate for RP
Mr. U. Balakrishna Bhat, RP

ORDER

1. The present Application bearing IA No.773/2019 in CP(IB)No.296/7/HDB/2018 is filed by Resolution Professional U/s. 33 of the IB Code, 2016 inter-alia praying to:-

- i. Pass an order of Liquidation against the Corporate Debtor.
- ii. Appoint the proposed Liquidator whose name and consent will be submitted in 7-10 days as the Liquidator in respect of the Corporate Debtor.
- iii. Order the Committee of Creditors and the proposed Liquidator to consider the professional fees (as approved in the 1st CoC dated 21st September 2018) of the Applicant for the period 07.08.2019 till the liquidation order as envisaged under section 33 of the code is passed.

2. It is stated that this Adjudicating Authority in an application filed by M/s. ICICI Bank Limited., U/s.7 of the I&B Code, 2016, against the Corporate Debtor M/s. Lanco Babandh Power Limited., admitted the said Application vide Orders dated 29.08.2018. In terms of the said order, this Adjudicating Authority appointed the Applicant as the IRP in respect of the Corporate Debtor in terms of Section 16 of the Code.

3. It is stated that the Interim Resolution Professional made a **Public Announcement on 31.08.2018** vide Form A under Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) which was published in English, Telugu and Odiya edition of Business Standard, Surva and Odisha Bhaskar News Papers on 31.08.2018.

4. It is stated that in the 1st CoC meeting held on 27.09.2018 the Applicant was appointed as the Resolution Professional pursuant to the approval of the Committee of Creditors in terms of provisions of Sec.22 of the Code and during the CIRP Process of the Corporate Debtor, the following meetings of the CoC were held;

<u>Sl.No.</u>	<u>Date of Meeting</u>
1.	27.09.2018
2.	12.10.2018
3.	12.11.2018
4.	12.12.2018
5.	22.01.2019
6.	15.02.2019
7.	15.03.2019 - Adjourned
8.	Continuation of Adjourned Meeting 16.04.2019
9.	02.05.2019
10.	10.05.2019
11.	30.05.2019
12.	06.06.2019
13.	12.07.2019
14.	17.07.2019
15.	24.07.2019
16.	29.07.2019
	06.08.2019



5. It is stated that the Applicant has issued two public announcements dated 23.04.2019 and 14.05.2019 inviting for submission of Expression of Interest under Section 25(2)(h) of the Code from the Prospective Resolution Applicants and any other persons (Potential

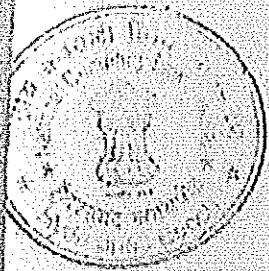
Resolution Applicants/Resolution Applicants) for the purpose of submission of Resolution Plan in respect of the Corporate Debtor within the time lines indicated under Regulation 39(1) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and the said publication of EOI was published in English, Telugu and Odiya of Financial Express, Free Press, Sanchalana Varta Patrika and The Utkal Mail News Papers on 23.04.2019 and on 14.05.2019.

6. It is stated that pursuant to the publication of the said EOI, only one EOI and Resolution Plan was received by the Applicant herein in respect of the Corporate Debtor.

7. It is stated that CIRP process in respect of the Corporate Debtor commenced on 29.08.2018 and expired on 08.05.2019 and that vide order dated 19.07.2019 this Adjudicating Authority extended the CIRP period upto 06.08.2019.

8. It is stated that the sole Resolution Applicant M/s. Sterlite Power Transmission Limited did not submit the complete Resolution Plan after removing all the shortcomings pointed out by the Applicant, so as to satisfy him about the feasibility and viability of the Resolution Plan as per Regulation 38(3)(b) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 till the CIRP period end date as on 06.08.2019. Thus, no Resolution Plan was presented to the CoC by RP.

9. The matter was heard by this Adjudicating Authority on 17.10.2019 where a direction was issued to the RP to submit approval of CoC members for liquidation of the Corporate Debtor. On being directed, the RP on 18.11.2019, filed a memo enclosing the extract of minutes



and resolution of the Joint Lenders meeting dated 06.11.2019 which are as under:

"The JLF passed following two Resolutions with 96.53% of voting share:

- i. Resolved to approve the liquidation of Lanco Babandh Power Ltd.
- ii. Resolved to propose the name of Mr. Sanjay Kumar Gupta from AAA Insolvency Resolution Professional LLP as Liquidator of LBPL."

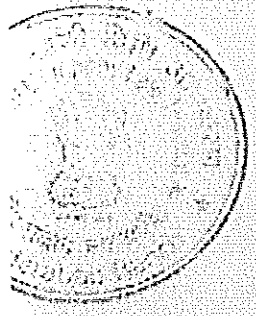
10. Further, the Counsel for the RP has filed memo proposing the name of one Mr. Sanjay Gupta along with his written consent to be appointed as the Liquidator in the present matter.

11. Heard both sides and perused the records.

12. In view of the facts and circumstances recorded by RP in IA No.773 of 2019 filed in CP(IB) No. 296/7/HDB/2018, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30. Therefore, in exercise of powers conferred under Sub-Clauses (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, we proceed to pass Order as follows:—

- (i) This Adjudicating Authority hereby order for Liquidation of M/s. Lanco Babandh Power Limited, which shall be conducted, in the manner as laid down in Chapter-III of part II of the I&B Code, 2016;
- (ii) This Adjudicating Authority hereby appoint Mr. Sanjay Gupta, IBBI Registration No. IBBI/IPA-001/IP-P00117/2017-18/10252 who has given his consent letter dated 28.08.2019 to act as Liquidator in the present case. He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;

... .. declared under Section 14 of the I&B Code, 2016.



(v) Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

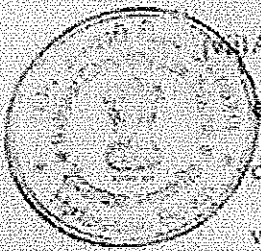
(vi) We make it clear that para (v) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

(vii) 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.

(viii) 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 Company Liquidator viz., Mr. Sanjay Gupta. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

(ix) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

(x) The Liquidator shall keep in view the provisions of Regulation 32A of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as going concern. However, if he is unable



to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the assets of the Corporate Debtor under clauses (c) to (h) of Regulation 32 of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016.

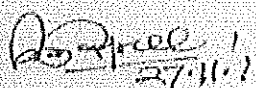
(x) The Company Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in such a proportion to the value of the Liquidation Estate assets as specified by the Board under Regulation 4(3) of IBBBI (Liquidation Process) Regulations, 2016. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation Estate.

(xi) The Liquidator shall also consider payment of professional fees to the RP as part of CIRP cost.


(xii) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. Sanjay Gupta for information and compliance.

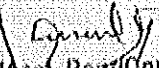
(xiii) Registry is directed to furnish a copy of this order to IBBBI for confirmation of appointment of Liquidator.

(xiv) In terms of the above, IA No. 773 of 2019 filed in CP(IB) No 296/7/HDB/2018 by the RP under Section 33(2) of the IBC Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Lanco Hubandh Power Limited, stands disposed off.


27.11.19
Dr. BINOD KUMAR SINHA
MEMBER (TECHNICAL)

Alekhiya


K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)


Dy. Regr./Asst. Regr./Court Officer
Insolvency and Bankruptcy Law Tribunal, Hyderabad Bench