

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

I.A. No. 760 of 2019
IN
C.P (IB)NO.539/9/HDB/2018

U/s of 33(2) of IBC, 2016

In the matter of

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SRI
M/S/BALAHA CHEMICALS PRIVATE LIMITED

Versus

M/S RE CABLES AND CONDUCTORS PRIVATE LIMITED

Mrs. Padmasri Appana
Resolution Professional
M/s RE Cables and Conductors Private Limited
#1-1-711/1, Gandhi Nagar
Hyderabad-500080

...Applicant/
Resolution Professional

Date of order: 20.09.2019



Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Narendra Kumar Bhola, Member (Technical)

Appearances:

For the Applicant: Ms Padmasri Appana, Resolution Professional
along with Ms JVL Bharati, Advocate

Heard on: 12.09.2019

nmw

PER: SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

BRIEF OF THE CASE:

1. Under consideration before us is the application filed by Resolution Professional under sec 33(2) of the Insolvency and Bankruptcy Code, 2016, seeking orders for liquidating the Corporate Debtor M/s. RE Cables and Conductors Private Limited and further to appoint the Resolution Professional/ Applicant herein to act as Liquidator.

AVERMENTS:

2. The facts apropos to the Application in brief are:-
 - 1) This Tribunal had admitted the Petition bearing No. CP (IB) NO. 539/ 9/HDB/2018 filed by M/s ^{Sri Balaha} Balaha Chemicals Private Limited under Section 9 of Insolvency & Bankruptcy Code, 2016 on 05.12.2018 and initiated Corporate Insolvency Resolution Process (CIRP) against Corporate Debtor M/s RE Cables and Conductors Private Limited. The Applicant herein was appointed Interim Resolution Professional (IRP) who was subsequently confirmed as Resolution professional. In all, the Resolution Professional conducted 12 CoC meetings.
 - 2) Pursuant to above order of this Tribunal , the Applicant issued Public announcement, in Business Standard in English and Nava Telangana Paper in Telugu daily News Papers on 08.12.2018, inviting claims by 19.12.2018.
 - 3) In response to the Public announcement and after collation of the claims received, the Committee of Creditors (COC) was constituted as per Sec 21 of the Insolvency and Bankruptcy Code, 2016 as under, which was informed to this Tribunal on 28.12.2018



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SL. No.	Name of Financial Creditor	Amount of claim Rs.	% Voting Share
1	State Bank of India	70,84,42,286	57.98%
2	Bajaj Finance Ltd.	11,80,731	0.10%
3	ICICI Bank Ltd.	13,16,09,678	10.77%
4	RBL Bank Ltd.	38,06,14,041	31.15%
	Total	122,18,46,736.51	100.0%

The details of claims received from operational creditors or government authorities and details of amount admitted are as under:-

Sl. No	Name of the Financial Creditor	Amount Claimed	Amount admitted
1	Asia Vidhyut	5, 87,589	5,87,589
2	Sri Balaha Chemicals Private Limited	5, 70,80,643	5,70,80,643
3	R.P.Industries	21, 31,85,042.88	10,61,02,119
	TOTAL	27, 08,53,274.88	16,87,70,351

- 4) The Resolution Professional / Applicant herein conducted 12 CoC meetings as under:-



1st CoC	03.01.2019
2nd CoC	07.01.2019
3rd CoC	28.01.2019
4th CoC	27.02.2019
5th CoC	12.04.2019
6th CoC	24.04.2019
7th CoC	14.05.2019
8th CoC	28.06.2019
9th CoC	17.07.2019
10th CoC	07.08.2019
11th CoC	13.08.2019
12th CoC	19.08.2019

- 5) In the 3rd CoC meeting held on 28.01.2019 the CoC members approved appointment of IRP as Resolution Professional with 100% majority. Further CoC approved for

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appointing two registered valuers viz. K. Dhanapathi Rao & Co. and Mr. Veera Prathap Reddy to determine the fair value and liquidation value of the assets of the Corporate Debtor assets.

- 6) As required under Regulation 36A (1), the Applicant issued publication in Form-G inviting expression of interest in Business Standard and Nava Telangana newspapers. The Resolution Professional received Expression Of Interest (EOI) from M/s Arrow Cables Limited, M/s. Kamini Metalliks Limited and M/s Radha Smeltars private Limited.
- 7) In the 6th CoC Meeting held on 24.04.2019, the members deliberated and approved the Information Memorandum and Evaluation Matrix to be issued to prospective Resolution Applicants.
- 8) In the 12th COC meeting held on 19.08.2019, the COC members evaluated the Resolution Plan submitted by M/s Arrow Cables Limited and in the e-voting held from 23.08.2019 to 28.08.2019, 89% of the CoC voted against the plan. COC Minutes dated 19.8.2019 is marked as Annexure - 2). Further as per Regulation 39C of IBBI (CIRP) Regulations, COC made the grouping of assets of the Corporate Debtor as follows, which has been approved by CoC with 100% majority.:



UNIT 2 & 3 as 1 group:

Unit 2: Admeasuring 4050 sft (RCC) and 8100 sft (ACC) situated at plot no. 29 (western part) admeasuring 1209 sq. yards with RCC structure and ACC sheds thereon at Sy. No. 35, Block no.9, Shed No.10, APIIC Phase-1, IDA Cherlapally, GhatkesarMandal, Kapra Municipality, Ranga Reddy District, Hyderabad -500051, belonging to M/s R.E. Cables & Conductors Pvt. Ltd..(SBI).

Unit 3: Shed no. 10-22, Plot No. 25/A admeasuring 1067 sq. Yds, with built up area 7854.00 sft with industrial sheds thereon at Sy. No.35, Block No.9, APIIC Phase-1, IDA,

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Cherlapally, GhatkesarMandal, Kapra Municipality,
Ranga Reddy District, Hyderabad -500051 belonging to M/s
R.E. Cables & Conductors Pvt. Ltd.(SBI)

UNIT 4 plant at Rampally : as a separate unit

It is more described as Industrial shed at Survey no. 223,
North & West Side part, measuring 7705.13 sq. yards at
Rampally Village, Keesara Mandal, Ranga Reddy district,
Hyderabad - 500098 belonging to M/s R.E. Cables &
Conductors Pvt. Ltd (SBI)

Nacharam Property as separate unit

Description of the property RCC building (consisting of
Ground, 1st & 2nd floors) Plot no. A/28/1/14D (Pump and
Room land), admeasuring 476.68 sq. Yards (Plinth area
9000 i.e., sft. 3000 sft in each floor) as given in floor map,
situated at industrial park, Nacharam, APIIC-IALA,
Nacharam Municipality, Uppal, Rangareddy district, Doc
no. 12459/2013, SRO, Uppal. Together with fittings and
fixtures annexed thereto/ building structure standing
thereon belonging to M/s R.E. Cables & Conductors Pvt.
Ltd. which is exclusively charge given to RBL.

9. Since, 89% of voting share of CoC voted against the
Resolution Plan, the Applicant herein moved this
Application under Section 33 (2), seeking orders for
liquidating the Corporate Debtor Company. It is further
averred that 270 days CIRP period came to an end
01.09.2019. The Applicant also requested to condone delay
of two days in filing this Application caused due to holidays
from 31.08.2019 to 02.09.2019.
10. The Applicant herein also requested the Tribunal to
appoint her as a liquidator under Sec 34(4)(c) and Sec 34(5)
of the Insolvency and Bankruptcy Code, 2016.
11. We heard Counsel for Resolution Professional. The Present
Application is filed by the Resolution Professional under
Section 33(2), Section 34(1) & Section 60(5) of the Code
seeking initiation of liquidation process of M/s. RE Cables
and Conductors Private Limited (Corporate Debtor).



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12. The Resolution Professional informed the CoC that she received only three Expression of Interest and Resolution Plan received from M/s Arrow Cables Limited was put for e-voting. As per the result of the e-voting on 28.08.2019, the CoC members with 89 % of the voting share in the COC, voted against Resolution Plan submitted by M/s Arrow Cables Limited and the Resolution Plan accordingly stands rejected by the COC. The CIRP period of 270 days came to an end on 01.09.2019. Hence, the CoC passed a resolution for liquidating the Corporate Debtor Company.
13. Section 33 of Insolvency and Bankruptcy Code, 2016 read as follows:
- (1) Where the Adjudicating Authority, —
- (a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or
- (b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—
- (i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;
- (ii) issue a public announcement stating that the corporate debtor is in liquidation; and
- (iii) require such order to be sent to the authority with which the corporate debtor is registered.
14. As per Section 33(1) (a) of the Code, if the Resolution Plan is not received under Section 30(6) with in CIRP period, the Tribunal has no other option but to pass a liquidation order. The Resolution Professional has not filed any Resolution Plan before this Tribunal under Section 30(6) with in CIRP period and the Resolution Plan submitted by the M/s Arrow Cables Limited was rejected by the COC with 89% voting share. By relying on Section 33(1)(a) of the Code, the







Resolution Professional having not submitted any Resolution Plan within CIRP period leads to passing an order of liquidation. We see no other alternative except passing an order of liquidation requiring the Corporate Debtor/ RE Cables & Conductors Pvt Ltd to be liquidated in the manner laid down in Chapter 3 of Part 2 of the Insolvency and Bankruptcy Code, 2016.

15. As per Section 34(1) of the Code after passing the order of liquidation of corporate Debtor, the Resolution Professional appointed for CIRP Process shall act as Liquidator for conducting Liquidation Process. Accordingly Mrs. Padmasri Appana having Registration No. IBBI/IPA-002/IP-N00220/2017-18/10672 is appointed as the Liquidator. The Resolution Professional has given her consent for appointing her as a liquidator.

ORDER

16. In the result, the Application is allowed and Corporate Debtor RE Cables & Conductors Pvt Ltd, ordered to be liquidated.
17. The Resolution Professional Mrs. Padmasri Appana, is appointed as the Liquidator to continue the Liquidation Process who has given her consent on 13.09.2019.



18. The Liquidator is directed to proceed with the process of liquidation in manner laid down in Chapter III of Part 2 of the Insolvency and Bankruptcy Code, 2016 by following the liquidation process given in IBBI (Liquidation Process) Regulations, 2016.
19. All 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 Liquidator.
20. The Liquidator is directed to issue Public Announcement stating that the Corporate Debtor is liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.
21. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect.

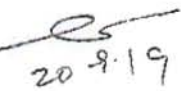
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22. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Code.
23. Since Liquidation order has been passed no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, save and except as mentioned in Section 52 of the Code, as to institution of legal proceedings by the Liquidator, he is at liberty to initiate suit or legal proceedings with prior approval of this Adjudicating Authority, but this direction shall 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.
24. We hereby direct that the fee shall be paid to the Liquidator as envisaged under Regulation 4 of IBBI (Liquidation process) Regulations, which forms part of the liquidation cost.
25. The Liquidator shall submit a Preliminary Report within 75 days from the Liquidation Commencement date as per Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016.

The Application is disposed of accordingly.


20.9.19
NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)


20.9.19
RATAKONDA MURALI
MEMBER (JUDICIAL)

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Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

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केस संख्या
CASE NUMBER..... Cp (IB) NO. - 539/9/HDB/2018
निर्णय का तारीख
DATE OF JUDGEMENT..... 20/9/19
प्रति तैयार किया गया तारीख
COPY MADE READY ON..... 25/9/19.