SL. No.126

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Video Conference

CORAM: HON'BLE BHASKARA PANTULA MOHAN,–MEMBER (J)
CORAM: HON'BLE DR. BINOD KUMAR SINHA,-MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 09.06.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/423/2021 in Company Petition IB/106/2021
NAME OF THE COMPANY	PVK Engineers Pvt Ltd
NAME OF THE PETITIONER(S)	Abhirama Steels Ltd
NAME OF THE RESPONDENT(S)	PVK Engineers Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

IA(IBC)/423/2022- Order pronounced vide separate sheets. Liquidation is allowed.

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MEMBER (T)

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MEMBER (J)

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NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

IA No.423 of 2022
in
CP(IB) No. 106/7/HDB/2021

[Under Section 33(2) r/w Section 34 of the Insolvency & Bankruptcy Code, 2016]

In the matter of
Abhirama Steels Limited vs. PVK Engineers Private Limited

In the matter of:

PVK Engineers Private Limited
Rep. by its Resolution Professional
Mrs. Mummaneni Vazra Laxmi
8-2-293/B2/A/270/R/A/1
Plot No.270E/A, Jubilee Hills
Hyderabad – 500 033.

.... Applicant/Resolution Professional

Date of Order: 09.06.2022

Coram:

Hon'ble Sri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Dr.Binod Kumar Sinha, Member (Technical)

Parties / Counsels Present:

For the Applicant : Mrs. Mummaneni Vazra Laxmi, RP

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Date of Order: 09.06.2022

[PER : BENCH]

ORDER

I. The instant Application is filed by the Resolution Professional of M/s. PVK Engineers Private Limited/Corporate Debtor under Section 33(1)(a) r/w Section 34 of the Insolvency and Bankruptcy Code, 2016, for short "IBC/Code", seeking –

   i. To liquidate the Corporate Debtor/M/s. PVK Engineers Private Limited; and

   ii. To appoint Mrs. Mummaneni Vazra Laxmi as the Liquidator of the Corporate Debtor.

II. This Adjudicating Authority, vide Order dated 29.10.2021 admitted the Company Petition bearing CP (IB) No.106/7/HDB/2021 filed by M/s.Abhirama Steels Limited, for short "Financial Creditor" against M/s.PVK Engineers Private Limited, for short "Corporate Debtor" and initiated CIRP process by appointing Mrs. Mummaneni Vazra Laxmi as Interim Resolution Professional, who was later confirmed as Resolution Professional at the 1st COC Meeting held on 07.12.2021.

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III. On assuming charge as Interim Resolution Professional, the Applicant took various steps/actions for completing the CIRP process.

IV. The Applicant issued Form-G on 28.01.2022 for Expression of Interest (EOI) but did not receive any bids. The Applicant informed the COC at their 4th COC Meeting held on 14.04.2022 that there is no response for EOIs and for issuance of second EOI, extension of CIRP period is required to be taken from the Adjudicating Authority. On review of the details of the Information Memorandum and Valuation Reports, COC opined that there are no immovable assets and Plant & Machinery and also the Liquidation Value of the Financial Assets is 'Nil'. As such, the possibility of receiving EOI second time is very low and COC decided not to approve for second issuance of EOI, and did not issue the second EOI. As there is no Expression of Interest or Resolution Plan received as per the timelines prescribed in the Code, the COC at its 4th COC Meeting held on 14.04.2022 decided to liquidate the Corporate Debtor with 100% voting as per Section 33(1)(a) of the Code.

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V. In the 4th COC Meeting, the COC passed the following resolutions as per the Regulations 39B, 39C & 39D of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and approved for Liquidation of the Corporate Debtor and directed the Applicant/RP to file an application before the Adjudicating Authority.

a) To Liquidate the Corporate Debtor:

"Resolved that pursuant to the provisions of Section 33(2) and Explanation provided thereunder of the Insolvency and Bankruptcy Code, 2016 to reduce further cost, to Liquidate the Corporate Debtor and further resolved that the RP shall file necessary application or IA with Hon'ble NCLT, Hyderabad to liquidate the Corporate Debtor".

b) Meeting Liquidation Cost as per Regulation 39B:

"The member of COC with 100% voting informed that they will be remitted as per actual costs incurred as per Regulations".

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c) Regulation 39C Assessment of Sale as a going concern:

"The COC Member with 100% voting informed that as there are no business operations in the Corporate Debtor Company therefore the sale of the Corporate Debtor as going concern is not suitable mode for sale of Corporate Debtor in liquidation and they are not recommending this type of sale".

d) Regulation 39D – To fix the Fee and Out of Pocket Expenses to the Liquidator of the Corporate Debtor:

"Resolved that pursuant to the Regulation 39D of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, to continue the present RP, Mrs. Mummaneni Vazra Laxmi as the Liquidator of the Corporate Debtor and the fee to be paid to the Liquidator is Rs.1,00,000/- per month + out of pocket expenses + GST, if any.

VI. The CoC members directed the Applicant to file an application before this Adjudicating Authority under Section 33 of the Code to liquidate the Corporate Debtor and decided to continue the present RP, Mrs. Mummaneni Vazra Laxmi as the

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Liquidator of the Corporate Debtor. The Applicant has submitted her written consent to act as Liquidator under Section 34 (1) of the Code and IBBI (Liquidation Process) Regulations, 2016.

VII. We have heard the Learned RP and perused the record.

VIII. In view of the facts and circumstances as recorded by RP in IA No. 423 of 2022 filed in CP(IB) No. 106/7/HDB/2021, since this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016, and this Adjudicating Authority deems it proper to allow the Application bearing IA No.423/2022. Accordingly, in exercise of powers conferred under Sub-Clause (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, we proceed to pass the Order as follows:—

i. This Adjudicating Authority hereby order for Liquidation of M/s. PVK Engineers Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

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ii. This Adjudicating Authority hereby appoint Mrs. Mummaneni Vazra Laxmi as Liquidator as resolved by CoC. She has given her consent in Form-2 and holds AFA which is valid upto 10.11.2022. She shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;

iii. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;

iv. 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.

v. We make it clear that para (iv) 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.

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vi. 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.

vii. 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., Mrs. Mummaneni Vazra Laxmi. 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.

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

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ix. The Liquidator shall keep in view of the provisions of Regulation 32A of IBBI (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as a going concern. However, if she 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 (a) to (d) of Regulation 32 of IBBI (Liquidation Process) Regulations, 2016.

x. The Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in accordance with the decision taken by the COC under Regulation 39D of IBBI (Insolvency Resolution Process Corporate Persons) Rules, 2016 r/w Regulation 4(1) of IBBI (Liquidation Process) Regulations, 2016.

xi. 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., Mrs. Mummaneni Vazra Laxmi for information and compliance.

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

(ii) Accordingly, Application bearing IA No. 423/2022 is allowed and stands disposed of.

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DR. BINOD KUMAR SINHA **MEMBER (TECHNICAL)**	**BHASKARA PANTULA MOHAN** **MEMBER (JUDICIAL)**

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