SL. No.130

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 01.06.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/123/2022 in CP (IB) No.228/7/HDB/2020
NAME OF THE COMPANY	Cosmos Forging Ltd
NAME OF THE PETITIONER(S)	Affluences Engineering and Enterprises Ltd
NAME OF THE RESPONDENT(S)	Cosmos Forging Ltd
UNDER SECTION	7 of IBC

ORDER

IA 123/2022 – IA is allowed. Liquidation Order passed vide separate sheets.

Sd/-
MEMBER (T)

SD/-
MEMBER (J)

Syamala

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

I.A. No. 123 of 2022
In CP(IB) No. 228/7/HDB/2020

In the matter of
M/s Cosmos Forgings Limited.

Mr. CA S. Prabhu,
Resolution Professional,
M/s. Cosmos Forgings Limited,
IBBI Regd No. IBBI/IPA-001/IP-P01275/2018-2019/11948,
27/9, Nivedh Vikas, Pankaja Mill Road,
Puliyakulam, Coimbatore- 641 045.

...Applicant

Date of Order: 01.06.2022

Coram:

Shri. Bhaskara Pantula Mohan, Member Judicial
Dr. Binod Kumar Sinha, Member Technical.

Parties/ Counsels present:

For the Applicant: Mr. S. Prabhu, RP
Mr. Damodar Mundra, Counsel

[Per: Bench]

ORDER

1. The present Application bearing IA No.123/2022 in CP(IB)No.228/7/HDB/2020 is filed U/s.33(1)(A), 33(2) & 34(1) of the I&B Code, 2016 read with Rule 11 of NCLT Rules, 2016 by Interim Resolution Professional *inter-alia* to:-

   a. Pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in Section 33(1)(a) of Chapter III of IBC, 2016.

SD/-

b. To pass an order appointing K.J.Vinod (IBBI/1PA-003/IPN00291/2020/2021/13451) as Liquidator for administering the Liquidation Process of the Corporate Debtor.

2. Brief facts as stated by the counsel for the Applicant are as follows:-

a. That the Company Petition for initiation of Corporate Insolvency Resolution Process (CIRP) was filed by the Financial Creditor namely M/s. Affluence Engineering and Enterprises Limited under Section 7 of the IBC, 2016 and the same was admitted by this bench on 26.08.2021 and the Applicant herein was appointed as the Interim Resolution Professional.

b. That subsequently, the Applicant was appointed as the Resolution Professional.

c. That in the second CoC meeting held on 25.10.2021, CoC resolved to issue of Form G (Invitation for Expression of Interest) and the same was published in Indian Express and Nava Telangana Daily Newspaper on 27.10.2021.

d. That the 3rd CoC meeting was held on 08.01.2022 when on considering the various aspects and the information provided by the Applicant, the following resolutions were *inter-alia* passed with 100% majority:

i. The CoC decided to proceed with liquidation process since the Corporate Debtor is not having any business prospects and no interested party has come forward during the CIRP. Further, since there is no active interest in the market for taking the

SD/-

company forward as a going concern, the CoC is of the opinion that there is no point in dragging the CIRP process and applying for extension and resolved to liquidate the Corporate Debtor.

ii. Considering the above facts, the CoC further resolved to appoint Shri. K.J Vinod as the Liquidator.

iii. Furthermore, the CoC discussed and resolved regarding cost of liquidation and related matters as per the requirements of Regulation 39B, 39C and 39D of IBBI (CIRP) Regulations.

e. That the Applicant submits that he is constrained to move this Adjudicating Authority seeking liquidation. There is no possibility of resolution plan since there are no business prospects and consequently the Resolution Professional in accordance with Section 33(1)(a) and 33(2) is preferring this Application seeking an order of liquidation of the Corporate Debtor and for appointing Mr. K.J. Vinod as the Liquidator.

f. The said Mr. K.J. Vinod expressed his willingness to act as the Liquidator of the Corporate Debtor in terms of Section 34 of the IBC.

g. That as per the provisions of the Code and Regulations the Resolution Professional is filing this application to seek order for liquidation of the Corporate Debtor. The RP hereby confirms that the COC consists of one Financial Creditor and three Operational Creditors in which, by 100% voting the COC agreed on liquidation of the Corporate Debtor.

SD/-

3. Heard the RP and perused the records.

4. In view of the facts and circumstances as recorded by RP in IA No. 123 of 2022 filed in CP(IB) No. 228/7/HDB/2020, since this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016, this Adjudicating Authority deems it proper to allow the Application bearing IA No.123/2022. Accordingly, 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. Cosmos Forgings 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. K.J.Vinod (IBBI/1PA-003/IPN00291/2020/2021/13451 as Liquidator as resolved by CoC. He has also filed his written consent to act as Liquidator in the present case along with Authorisation for Assignment (AoA). However, it is seen that the Authorisation for Assignment has expired. Therefore, he is directed to file a valid Authorisation for Assignment within three days from date of this order.

(iii) He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;

(iv) 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;

-Sd/-

(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 (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.

(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. K.J. Vinod. 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.

SD/-

(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 (a) to (d) of Regulation 32 of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016.

(xi) 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 read with Regulation 4(1) of IBBI (Liquidation Process) Regulations, 2016.

(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. K.J. Vinod for information and compliance.

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

5. Accordingly, Application bearing IA No. 123/2022 stands disposed off.

SD/-

Dr. Binod Kumar Sinha
Member Technical

-Sd/-

Bhaskara Pantula Mohan
Member Judicial