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**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH – I, CHENNAI**

IA(IBC)/484/CHE/2022 in IBA/756/2019

(filed under Section 33 of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***M/s. Cauvery Power Generation Private Limited***

Amier Hamsa Ali Abbas Rawther

Resolution Professional of

Cauvery Power Generation Private Limited

No. R094, SBIOA Unity Enclave, Mambakkam, P.O.,

Near Sivan Temple, Chennai – 600 127

... Applicant /Resolution Professional

Order Pronounced on **19th September 2022**

CORAM :

**Justice RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Applicant : Hema Srinivasan, Advocate
Amier Hamsa Ali Abbas Rawther, RP*

For CoC : P.S. Raman, Senior Advocate

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

The present Application has been filed by the Resolution Professional of the Corporate Debtor viz. Cauvery Power Generation Private Limited under the Section 33(2) of the IBC seeking following relief

(i) Pass order under Section 33(2) of Insolvency and Bankruptcy Code, 2016 to Liquidate the Corporate Debtor,

(ii) Pass appropriate orders for appointing Mr. K. Sivalingam as the Liquidator of the Corporate Debtor, and

(iii) As such other further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. The Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor was initiated by this Tribunal on 18.10.2019 in IBA 756 of 2019 and one Mr. R. Venkatakrishnan was appointed as the Interim Resolution Professional. Thereafter, in the 1st CoC meeting held on 15.11.2019, the Applicant herein was appointed as the Resolution Professional (RP) in respect of the Corporate Debtor.

3. It was submitted that on 08.02.2020 the Applicant herein, has issued the invitation for Expression of Interest (EoI) in Form-G which was published in the newspaper, and the last date for the receipt of EoI was fixed as 23.02.2020. Thereafter, it is seen that due to Covid-19 pandemic the CIRP in respect of the Corporate Debtor could not move forward. In the meantime, on 30.12.2020 it was submitted that the State Bank of India, one of the Financial Creditors in respect of the Corporate Debtor, with voting share of 89.09% assigned its debt to ASREC India Ltd.



4. Upon perusal of the Application, it is seen that the RP has conducted a total of 42 CoC meetings. It is also seen that on 23.07.2021, the Resolution Plan submitted by Sherisha Technologies Private Ltd. was approved by the CoC with 100% voting rights. However, the said Resolution Applicant has failed to furnish the performance guarantee and hence in the 38th CoC meeting held on 23.11.2021, the CoC has rejected the Resolution Plan of the said Resolution Applicant.

5. Thereafter, it is seen on 02.12.2021, a fresh EoI was published in Form-G and in pursuance of the same one RKG Asset Management LLP has submitted the EoI. The last date for submission of the Resolution Plan was fixed as 01.03.2022. However, it is averred that the said RKG Asset Management LLP has not submitted in Resolution plan within the stipulated time period. Further, it is seen from the minutes of the 42nd CoC meeting held on 17.03.2022 that the CoC has unanimously voted for liquidation of the Corporate Debtor.

6. It is also seen that a Resolution was passed by the CoC to appoint **Mr. K. Sivalingam** Insolvency Professional, with IBBI Reg. No. IBBI/IPA-001/IP-P01597/2018-2019/12340 as the Liquidator of the Corporate Debtor under Section 34(1) of IBC 2016 and the remuneration for the Liquidator is arrived at Rs.1,25,000/- (One

Lakh Twenty-Five Thousand) per month + GST. Further, the consent letter given by the said Mr. K. Sivalingam is also filed along with the typeset and also upon verification from the IBBI website, it is seen that said Mr. K. Sivalingam holds a valid AFA for the period till 12.12.2022.

7. We have also perused the Form – H filed by the Applicant. It is seen that the even after issuing EoI twice, the Corporate Debtor did not garner any Resolution Plan and hence the CoC in its commercial wisdom has decided to liquidate the Corporate Debtor and also passed a Resolution to that effect in the 42nd CoC meeting held on 17.03.2022. Thus, by taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to the Application from the Promoters of the Corporate Debtor and also guided by the decision of the Hon'ble Supreme Court in the matter of **Mr. K. Sasidharan –Vs– Indian Overseas Bank (2019) SCC OnLine SC 257** this Tribunal orders for the liquidation of the Corporate Debtor.

8. In the circumstances, **Mr. K. Sivalingam**, with Reg. No. *IBBI/IPA-001/IP-P01597/2018-2019/12340*, is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.



- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.



- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

9. The application IA(IBC)/484/CHE/2022 stands **allowed** with the aforesaid terms.

- Sd -

SAMEER KAKAR
MEMBER (TECHNICAL)

- Sd -

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT

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