



NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 ON 09-03-2020

PRESENT: SHRI R. VARADHARAJAN, MEMBER-JUDICIAL
SHRI ANIL KUMAR B, MEMBER - TECHNICAL

APPLICATION NUMBER : MA/1404/2019 IN
PETITION NUMBER : IBA/308/2019
NAME OF THE PETITIONER(S) : GOPALASAMY GANESH BABU LIQUIDATOR
(QUANTUM COAL ENERGY PVT LTD)
NAME OF THE RESPONDENT(S) : PADMANATHAN VIJAYAKUMAR & 4 ORS
UNDER SECTION : SEC 66(1) OF IBC

S.No.	Name (in Capital)	Represented by	Signature
1.	PRAKASH for Kns law Chambers	Respondent	
2.	A.M. SRIDHARAN B.UDHAYA KUMAR	COUNSEL FOR APPLICANT/ LIQUIDATOR	

ORDER

Ld. Counsel for the Applicant/Liquidator as well as the Ld. Counsel for the Corporate Debtor are present. It is brought to the notice of this Tribunal that in an Appeal preferred by the Corporate Debtor through its CEO against the Order passed by this Tribunal liquidating the Corporate Debtor on 17.09.2019 in MA/918/2019 and that vide the said Order in Appeal passed by the Hon'ble NCLAT in C.A. (AT) (Insolvency) No. 1207 of 2019 dated 06.12.2019 directed that during the pendency of the Appeal the Resolution Professional/Liquidator will not proceed with the liquidation process nor take any steps until further orders and adjourned finally on 31.01.2020. Subsequently vide Order dated 19.02.2020 the Ld. Counsel for the Applicant brings to the notice of this Tribunal in Para Nos. 7, 9(A), 9(B) and 9(C) of the said Order passed by the Hon'ble NCLAT which are extracted below: -

"7. Considering the object of the IBC which is resolution and that effort should be made to revive the Corporate Debtor rather than to eliminate the same, we find that this is a fit case for us to exercise inherent powers under Rule 11 of National Company Law Appellate Tribunal Rules, 2016 (NCLAT Rules, 2016 – in short), to do justice. It is necessary to set aside the liquidation Order as well as the CIRP proceedings.



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9(A). *For the above reasons, we set aside the Impugned Order of liquidation and the earlier proceedings of CIRP initiated on admission of Application under Section 9 of IBC, exercising powers under Rule 11 of NCLAT Rules, 2016.*

(B) The Corporate Debtor is released from the rigour of law and is allowed to function independently through its Board of Directors. The Liquidator will hand back the records and management of the affairs of the Corporate Debtor, to the Board of Directors.

(C) The Corporate Debtor will ensure compliance of Annexure A-24, Annexure A-25 and Annexure A-26, the consent letters taken from (1) Carbone International PTE Ltd., (2) Agarwal Coal Corporation Pvt. Ltd and (3) Penta Coal Pvt. Ltd (Diary No. 17031). If any grievance is received from any of these Operational Creditors regarding non-receipt of the amounts or part of the same, we would recall the present Orders."

A perusal of the above said paragraphs shows that in exercise of inherent powers of NCLAT under Rule 11 of the NCLAT Rules, 2016 the Order of liquidation passed by this Tribunal as well as the CIRP proceedings have been set aside.

In the circumstance the rigour of law in relation to the Corporate Debtor has been released and the Liquidator has been directed to hand over the affairs of the Corporate Debtor through its Board of Directors whose powers stood restored.



In relation to paragraph 9(C) of the Order passed by the Hon'ble NCLAT it is brought to the notice of this Tribunal by the Ld. Counsel for the Corporate Debtor that as such non compliance has been brought-forth before the Hon'ble NCLAT and in any case reading of the said paragraph is to the effect that in case non-receipt of the amount the parties are only to approach the Hon'ble NCLAT seeking to recall the present Order passed by it and not before this Tribunal in case of non settlement of amount due to them.

Taking into consideration the Memo as filed by the Applicant/Liquidator as well as the Order passed by the Hon'ble NCLAT dated 19.02.2020, this Application stands **closed**. File to records.

-SD-

(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)

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