

SL. No.8

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(Physical Hearing)

CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)

CORAM: SHRI CHARAN SINGH - HON’BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 15.12.2022 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/1441/2022 IA(IBC)/1294/2022 IA (IBC)/1302/2022 in CP(IB) No.320/7/HDB/2020
NAME OF THE COMPANY	GVK Industries Ltd
NAME OF THE PETITIONER(S)	Jammu & Kashmir Bank Ltd
NAME OF THE RESPONDENT(S)	GVK Industries Ltd
UNDER SECTION	7 of IBC

ORDER

IA1441/2022

Ld. Counsel Mr. VVSN Raju for the applicant present. Ld. Counsel Mr. Amir Bavani along with Mr. Vishal Hirawat for Resolution Professional present. This Application is filed seeking for an appointment of IP as liquidator of the Corporate Debtor. The Respondent does not raise any objection. CA Mr. Sai Ramesh Kanuparthi is appointed as Liquidator and the Application is accordingly allowed.

IA1294/2022

Counter filed. For rejoinder, if any, list the matter on 12.01.2023.

IA1302/2022

Allowed vide separate order.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II, HYDERABAD**

I.A. No. 1302/2022 in
C.P. (IB) No. 320/7/HDB/2020
Under Section 33(2) of the IB Code, 2016 r/w
Section 60(5) of the IB Code, 2016.

In the matter of
M/S GVK INDUSTRIES LIMITED

Mr. Mukesh Verma,
Resolution Professional for M/S GVK Industries Limited,
B 1506, Avenue 2, Sunteck City,
ODC, Goregaon West,
Mumbai Suburban, Maharashtra – 400104.

...Applicant/Resolution Professional

Date of Order: 15.12.2022

Coram:

Justice Telaprolu Rajani, Member, Judicial

Sri Charan Singh, Member, Technical

Counsel present:

For the Applicant: Mr. Abhishek Devgan & Mr. Vishal Hirawat, Advocates

Per : Bench

ORDER

1. This is an Interlocutory Application filed by the Resolution Professional (hereinafter referred to as the “Applicant”) of M/S GVK Industries Limited (hereinafter referred to as the “Corporate Debtor”), under Sections 33(2) and 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code, 2016”), seeking an order for liquidation of the Corporate Debtor and to appoint a Liquidator to administer the liquidation process.

2. Brief facts of the case as submitted by the Applicant, are as follows:
 - a) Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) had been initiated against the Corporate Debtor, vide order of this Tribunal, dated 21.04.2022, in C.P. (IB) No. 320/7/HDB/2020 and one Mr. Mukesh Verma had been appointed as the Interim Resolution Professional of the Corporate Debtor, who was subsequently confirmed as the Resolution Professional by the Committee of Creditors (hereinafter referred to as the “CoC”), in its 1st meeting, dated 24.05.2022.

 - b) In the 2nd CoC meeting held on 01.07.2022, the Eligibility Criteria for the Prospective Resolution Applicants (PRAs) and the timelines for inviting the Expression of Interests and resolution plan(s) were approved and

consequently, the Applicant published Form – G, dated 07.07.2022, inviting Expression of Interest (EOIs) from the Prospective Resolution Applicants (PRAs) for submitting resolution plans for the Corporate Debtor, in Business Line, Nava Telangana, Praja Shakti and Financial Express.

- c) On the request of the interested PRAs, the CoC decided to extend the last date of submission of EOIs from 03.08.2022 to 17.08.2022 and necessary public announcement was made in the same set of newspapers.
- d) On receipt of the EOIs, the Applicant conducted necessary due diligence based on the material/information on records and found 3 PRAs to be in compliance with the conditions laid in the invitation of EOI.
- e) The Applicant convened the 5th CoC meeting on 03.10.2022, to open the Resolution Plans received, if any, and to discuss the future course of action if no resolution plan was received from any PRA till last date i.e., 01.10.2022, besides other issues. The meeting was deferred to 06.10.2022, on the request of the CoC members to enable the CoC to discuss the situation arising due to non-receipt of any resolution plan.
- f) The Applicant informed the CoC that CIRP period would come to an end on 18.10.2022 and an extension of time would be required, if the

members of the CoC decide to publish a fresh Form - G. However, the members of the CoC, in their commercial wisdom, did not approve the aforesaid resolution.

- g) Owing to the non-receipt of resolution plans and rejection of the resolution qua the extension of the CIRP period, liquidation seemed to be the *fait accompli* of the Corporate Debtor. The Applicant convened 6th CoC meeting on 17.10.2022, wherein the resolution qua the liquidation of the Corporate Debtor was proposed and passed with 80.33% voting share by the members of the CoC.
- h) During the 6th CoC meeting, the members did not propose the name of any other insolvency professional, with requisite consent, to act as liquidator. However, after circulation of the minutes of the CoC meeting, Bank of Baroda vide its mail dated 17.10.2022, informed that majority lenders propose the name of Mr. K. Sai Ramesh to act as the liquidator and attached his consent form.
- i) Thereafter, Canara Bank, one of the members of the CoC, vide email dated 18.10.2022 also proposed the name of Mr. K. Sai Ramesh as Liquidator, who agreed to offer discount on the fees as prescribed in Sub-Regulation 2(a) & (b) of Regulation (4) of IBBI Liquidation Regulations 2016.

j) Another Financial Creditor, Edelweiss ARC, proposed the named of Mr. Anil Kohli to act as the Liquidator, vide e-mail dated 21.10.2022.

k) However, subsequently, Applicant vide his mail dated 26.10.2022 voluntarily offered 50% discount in fee vis-à-vis as stated in Sub-Regulation 2(a) & (b) of Regulation (4) of IBBI Liquidations 2016.

Hence, the instant Application has been preferred, seeking an order to liquidate the Corporate Debtor and to appoint the Applicant as the Liquidator to administer the liquidation process.

3. We have heard the learned counsel for the Applicant and perused the record.
4. It is observed that the CoC has, in its commercial wisdom, approved the liquidation of the Corporate Debtor unanimously, with a 100% majority, in view of the fact that no resolution plans had been received. Necessary resolutions for appointment of liquidator and payment of liquidator's fee have also been passed by the CoC. On consideration of the facts and circumstances of the matter, it is felt prudent to allow the instant Application and permit the liquidation of the Corporate Debtor.
5. As things stood thus, Bank of Baroda, a Financial Creditor of the Corporate Debtor filed I.A. No. 1441/2022, seeking for the appointment of one Mr. Sai

Ramesh Kanuparthi, as the Liquidator of the Corporate Debtor, which has been allowed vide order dated 15.12.2022.

6. 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 Code, 2016, we pass the order as follows:

- (i) This Adjudicating Authority, hereby, orders for liquidation of the Corporate Debtor, which shall be conducted in the manner as laid down in Chapter III of Part II of the Code, 2016.
- (ii) This Adjudicating Authority, hereby, appoints the Applicant, Mr. Sai Ramesh Kanuparthi, having Registration No. IBBI/IPA-001/IP-P00910/2017-2018/11510, R/o Plot No. 6-B, Beside TDP Office, Road No. 2, Banjara Hills, Hyderabad – 500034, as the Liquidator of the Corporate Debtor. The fee payable to the Liquidator shall be in accordance with the decision of the CoC. The Liquidator shall issue a public announcement stating therein that the Corporate Debtor is in liquidation.
- (iii) The moratorium declared under Section 14 of the Code, 2016, shall cease to have effect from the date of this order of liquidation.
- (iv) Subject to Section 52 of the 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 Adjudicating 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.

- (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. In addition to this, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Code, 2016, read with the 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 him in managing the affairs of the Corporate Debtor.
- (ix) The Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in accordance with Regulation 4(2) of IBBI (Liquidation Process) Regulations, 2016.
- (x) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, registered office of the Corporate Debtor and the Liquidator, for information and compliance.
- (xi) Registry is directed to furnish a copy of this order to the IBBI for confirmation of appointment of Liquidator.

7. Accordingly, this Application stands disposed of.

Sd/-

(Charan Singh)
Member, Technical

Sd/-

(Justice Telaprolu Rajani)
Member, Judicial