NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

11. I.A. 148/2022 I.A. 2891/2021 I.A. 2860/2021
I.A. 2510/2021 I.A. 2494/2021 I.A. 2446/2021
I.A. 2255/2021 I.A. 2196/2021 I.A. 1995/2021
I.A. 1327/2021 I.A. 760/2021 I.A. 706/2021
I.A. 588/2021 I.A. 504/2021 I.A. 496/2021
I.A. 457/2021 I.A. 453/2021 I.A. 188/2021
I.A. 2408/2020 I.A. 2397/2020 I.A. 2388/2020
I.A. 2283/2020 I.A. 2282/2020 I.A. 2279/2020
I.A. 2163/2020
IN
C.P.(IB)-2915(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **25.01.2022**

NAME OF THE PARTIES: M/S. Finquest Financial Solutions Pvt Ltd.

V/s

Ballarpur Industries Ltd

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Anuj Jain, Mr. Ramakant Rai, Ms. Supriay Majumdar, Mr. Ankur Joshi, Mr. Gaurav Joshi, Ms. Sanjukta Roy, Ms. Sandhya Lyer, Mr. Ashish Chandra are present through virtual hearing.

I.A. 2510/2021

The above application is filed for Liquidation. The above Application is allowed. Detailed order will follow.

List the other pending applications on 01.03.2022.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

I.A. 2510 OF 2021

IN

CP (IB) -2915/I&B/MB/2019

Under Section 33 (1) and Section 34 (1) of the Insolvency & Bankruptcy Code, 2016

Filed by
Mr. Anuj Jain
Resolution Professional for:
M/s Ballarpur Industries Limited

...Applicant

In the matter of
M/s Finquest Financial Solutions Private Limited
602, Boston House, Near Cinemax, Suren Road, Andheri (East), Mumbai - 400093

...Financial Creditor/Petitioner

Versus

M/s Ballarpur Industries Limited
P O Ballarpur Mills, Ballarpur, Dist. Chandrapur, Maharashtra - 442901

...Corporate Debtor

Order delivered on: 25.01.2022

Coram:
Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:
For the Applicant: Mr. Ramakant Rai (Advocate)
a/w Mr. Somesh Srivastava (Advocate)

1. The above application I.A. No. 2510/2021 is filed by Resolution Professional, Mr. Anuj Jain (hereinafter referred to as the "Applicant") seeking liquidation of M/s Ballarpur Industries Limited (hereinafter referred to as the "Corporate Debtor") under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

   a. *Pass an order initiation the liquidation of the Corporate Debtor;*
   b. *Pass an order appointing the Applicant as the liquidator of the Corporate Debtor;*
      and/or
   c. *Pass any such other order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice and equity.*

2. The brief facts of the application are as follows:
   A. The Applicant mentioned that this Tribunal vide its order dated 17.01.2020 in Company Petition (IB) No. 2915 of 2019 admitted the petition under Section 7 of the Code, filed by M/s Finquest Financial Solutions Private Limited (hereinafter referred to as the "Financial Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against M/s Ballarpur Industries Limited. Mr. Divyesh Desai herein was appointed as the Interim Resolution Professional (hereinafter referred to as the "IRP") of the Corporate Debtor by this Tribunal vide this Order dated 17.01.2020.
   B. On 20.02.2020, in the first meeting of the Committee of Creditors (hereinafter referred to as the "CoC") the Applicant was appointed as the Resolution Professional which is approved by 67.43% members voting in favour of the same.

Further the Hon'ble NCLAT vide its order dated 27.05.2020 permitted the appointment of the Applicant as Resolution Professional of the Corporate Debtor.

C. The Counsel for the Applicant states that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 01.07.2020 in Business Standard (All India Edition in English), Financial Express (All India Edition in English), Sakal (Chandrapur, Maharashtra Edition in Marathi), Jansatta (Gurugram Edition in Hindi), Dainik Tribune (Yamunangar, Haryana Edition in Hindi) and Surya (Warangal, Telangana Edition in Telegu) respectively, 22.07.2020 being the last date for receipt of Express of Interest and 21.05.2021 being the last date for submission of Resolution Plan which was respectively extended till 16.09.2022. Thereafter, the Applicant received EoI from 19 Entities and only 1 Resolution Plan was received by the Applicant which was of Finquest Financial Solutions Private Limited ("The Financial Creditor") till the last date of submission of the Resolution Plan.

D. The Applicant states that on 04.12.2020, in the 13th CoC meeting permitted the applicant to file an application for extension of deadline for conclusion of CIRP for further period of 90 days by a majority vote of 73.99%. Thereafter this Hon'ble Bench via its order dated 01.02.2021 extended the deadline of conclusion of CIRP by a period of 90 days till 20.03.2021.

E. Subsequently, the Applicant states that after numerous rounds of discussions and negotiations, the Financial Creditor submitted the final updated resolution plan on 16.09.2021. Therefore, the CoC in its 23rd meeting which was held on

20.09.2021. The following voting items were placed before the CoC:

i) **Item No. 1:** Approval of Plan submitted by Finquest along with first addendum dated 21.09.2021;

ii) **Item No. 2:** Approval of appointment of Liquidator and to approve the fee payable to the liquidator as per the provisions of Regulation 39D of the CIRP Regulations, 2016;

iii) **Item No. 3:** Approval to discuss and decide on the aspect of "Assessment of sale as a going concern" as per Regulation 39C of the CIRP Regulations, 2016; and

iv) **Item No. 4:** Approval of estimate liquidation cost as per Regulation 39B of CIRP Regulations, 2016 read with Regulation 2(1)(ea) of IBBI (Liquidation Process) Regulations, 2016.

On 21.09.2021 the First Addendum to the Plan was submitted. Further, the e-voting on the abovementioned voting agenda was started on 22.09.2021 at 16:00 Hrs. The deadline for voting upon the above stated voting items was stipulated by the RP as 29.09.2021 but after the certain requests from certain CoC members the deadline was extended till 07.10.2021 at 2100 Hrs. The Applicant further states that the CoC rejected all the abovementioned voting agendas including approval of plan submitted by the Financial Creditor in the Following manner:

Voting Item No.	**Voting Item**	**Voting Required (%)**	**Assented Voting**	**Decision**

			Achieved (%)	
1.	Approval of Plan submitted by Finquest along with first addendum dated 21.09.2021	66%	46.18%	Rejected
2.	Approval of appointment of Liquidator and to approve the fee payable to the Liquidator as per the provisions of Regulation 39D of the CIRP Regulations, 2016	66%	29.31%	Rejected
3.	Approval to discuss and decide on the aspect of "Assessment of sale as a going concern" as per	66%	57.62%	Rejected

	Regulation 39C of the CIRP Regulations, 2016			
4.	Approval of estimated liquidation cost as per Regulation 39B of CIRP Regulations, 2016 read with Regulation 2(1)(ea) of IBBI (Liquidation Process) Regulations, 2016	66%	29.31%	Rejected

F. The Applicant states that the Resolution Plan was the only Resolution Plan submitted and the 270 days period of CIRP had expired on 20.03.2021, this Bench vide its order dated 01.10.2021 in I.A. No. 1995 of 2021 (i.e. I.A. for exclusion of time) extended the CIRP period till the next date of hearing (i.e. 25.10.2021). The Applicant further states that the Corporate Debtor's value will be further eroded in absence of resolution or liquidation, therefore it will be beneficial for all stakeholders if the Corporate Debtor is liquidated.

G. The Applicant through its additional affidavit states that, after the rejection of appointment of the Applicant as the Liquidator in the 23rd CoC meeting. A meeting of the Joint Lenders Forum ("JLF") of the Corporate Debtor dated 21.10.2021 and 22.10.2021 in order to discuss the requirement of appointment of a liquidator. Thereafter, the CoC members, vide meeting of the JLF dated 03.12.2021 decided to recommend appointment of Mr. Ravi Sethia as the Liquidator for conducting the process of Liquidation of the Corporate Debtor.

3. Heard the counsel appearing for the Resolution Professional and perused the record. The counsel for the RP submits that the only resolution plan submitted by Finquest Financial Solutions Private Limited along with other agenda items were put to vote via e-voting in the 23rd meeting of CoC on 20.09.2021 and the e-voting was scheduled from 21.09.2021 to 29.09.2021 subsequently, extended it till 7.10.2021. In the meantime, this Bench vide its order dated 01.10.2021 extended the CIRP period till 25.10.2021. Finally, the CoC on 07.10.2021 rejected the only resolution plan submitted by Finquest Financial Solutions Private Limited along with other agenda items. The counsel appearing for the RP further submitted that more than 270 days has been lapsed after the extension and exclusion for completing the CIRP period and there being no resolution plan even after lapsed of more than 270 days. There is no option except to put the Corporate Debtor Company into Liquidation as per the Code as well as also to protect the assets of the Corporate Debtor from further deterioration. The counsel appearing for the RP also filed additional affidavit along with consent letter of proposed liquidator. In view of the above facts, this Bench feels that this is a

fit case for ordering Liquidation of the Corporate Debtor accordingly, the Interlocutory Application Number 2510 of 2021 is allowed directing Liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

1. The above I.A. No. 2510/2021 is allowed and the Corporate Debtor M/s Ballarpur Industries Limited is ordered to be liquidated.

    a. **Mr. Ravi Sethia**, having Registration No. IBBI/IPA-001/IP-P01305/2018-2019/12052 and having office at: KPMG Restructuring Services LLP, 8th Floor, Building No. 10, Tower C, DLF Cyber City, Gurgaon, Haryana 122002 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

    b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

    c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

    d. The Liquidator appointed under section 34(1) of the Code. Will have all 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 with the liquidator.

e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.

f. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

g. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

h. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

i. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the

Corporate Debtor continued during the liquidation process by the Liquidator.

With the above directions, this application i.e. I.A. No. 2510 of 2021 is hereby allowed and disposed of.

Sd/-	Sd/-
Chandra Bhan Singh	**H.V. Subba Rao**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**