



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-III

I.A./3904/ND/2022

IN

Company Petition No. (IB)-2311 (ND)/2019

(Under Section 33 of the Insolvency and Bankruptcy Code, 2016 for initiating liquidation process of Corporate Debtor and to pass other necessary directions)

IN THE MATTER OF:

M/s. Zep Infratech Limited

.... Operational Creditor

Versus

M/s. Earth Water Limited

.... Corporate Debtor

AND IN THE MATTER OF:

Mr. Ravindra Kumar Goyal
Resolution Professional of
M/s. Earth Water Limited

.... Applicant

CORAM:

SHRI BACHU VENKAT BALARAM DAS
HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA
HON'BLE MEMBER (TECHNICAL)

Appearances:

For the Resolution Professional : Mr. Tanmay Kelkar, Advocate and
Mr. Ravindra Kumar Goyal, RP in person

Order Delivered on: 03.01.2023



ORDER

PER: DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)

The instant application i.e. I.A./3904/ND/2022 is filed by Mr. Ravindra Kumar Goyal ('Applicant') / RP seeking liquidation of M/s. Earth Water Limited ('Corporate Debtor') under Section 33 of the Insolvency and Bankruptcy Code, 2016 ('Code') praying for the following relief(s):-

- a) Pass an order directing the initiation of Liquidation of the Corporate Debtor in accordance with Chapter III of Part II of the IBC, 2016;
 - b) Appoint the Applicant i.e., Ravindra Kumar Goyal, Resolution Professional of Earth Water Limited having Registration No. IBBI/IPA-001/IP-P-02019/2020-2021/13098, as the liquidator of the Corporate Debtor.
 - c) Pass ad-interim reliefs in terms of Clause A and B.
 - d) Pass such other order /directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.
2. The brief facts of the case leading to filing of this application as averred by the applicant are as follows:
- i) The applicant submits that M/s. Earth Water Limited ('Corporate Debtor') was incorporated on 21.06.2001 under the provisions of the Companies Act, 2013 and the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor vide order dated 15.02.2021 by this Adjudicating Authority in C.P.(IB)2311/ND/2019 in application under Section 9 of the Code, 2016 filed by M/s. Zep Infratech Limited ('Operational Creditor') The applicant further submits that the applicant initially appointed as IRP and was appointed as the Resolution Professional of the Corporate Debtor by this Adjudicating Authority order dated 14.07.2021 in I.A./2864/ND/2021.
 - ii) The applicant submits that the public announcement in Form - A in Financial Express Newspaper and Jansatta

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Newspaper was made on 21.02.2021 inviting the claims from public, consequent to which Committee of Creditors ('CoC') was constituted on 11.03.2021. The applicant further submits that the invitation for expression of Interest in Form G was published on two occasions i.e., 28.05.2021 and 17.08.2021 respectively. The applicant further submits that the last date for submission of Resolution Plan was 30.10.2021 which, on the request of one of the Prospective Resolution Applicant after taking approval of CoC, was extended to 30.11.2021.

- iii) The applicant submits that in the 9th CoC Meeting conducted on 08.02.2022, the CoC deliberated and considered the resolution plan submitted by the Prospective Applicant and expressed their concerns over several other commercial aspects of the Plan. The applicant further submits that the CoC had decided to extend time to the Prospective Resolution Applicant till 22.02.2022 for submission of the revised resolution plan.
- iv) The applicant submits that the proposed resolution plan submitted by the PRA was put to e-voting in the 10th CoC meeting held on 10.03.2022. The applicant further submits that the e-voting for the resolution plan was opened on 15.03.2022, 10:00 a.m. with a voting timeline till 29.03.2022 6:00 p.m. which was subsequently extended till 07.04.2022 and further till 28.04.2022 based on request of the CoC Members representing Union Bank of India. The applicant adds that all the members of the CoC had e-voted on the resolution of the approval of resolution plan and rejected the resolution plan with voting share of 98%.
- v) The applicant submits that the members of COC in the 11th CoC Meeting conducted on 04.05.2022 had unanimously resolved to liquidate the corporate debtor. The applicant further submits that CoC resolved to appoint Mr. Ravindra

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Kumar Goyal (IBBI/IPA-001/IP-P-02019/2020-2021/13098) the applicant/ Resolution Professional herein as the liquidator of the Corporate Debtor and Shri Ravindra Kumar Goyal has agreed to act as Liquidator to carry on the process of Liquidation of the Corporate Debtor.

3. We have considered the submission made by the Learned Counsel on behalf of the applicant/Resolution Professional and upon perusing the material available on record, it is observed from the minutes of the 11th CoC meeting held on 04.05.2022 that the CoC has unanimously decided to liquidate the Corporate Debtor and further decided to appoint the applicant as the liquidator at the remuneration of Rs. 75,000/- per month under Regulation 39 D of The IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 with vote share of 97.53% in the favor.
4. In light of the above, the instant application **I.A./3904/ND/2022** is **allowed** and M/s. Earth Water Limited ('Corporate Debtor') is ordered to be liquidated with the following directions:
 - a. Mr. Ravindra Kumar Goyal, Resolution Professional of Earth Water Limited having Registration No. IBBI/IPA-001/IP-P-02019/2020-2021/13098 and having E-Mail id: ravindra1960_goyal@yahoo.co.in is hereby appointed as the Liquidator as provided under Section 34(1) of the Code, 2016.
 - b. 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.
 - c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;



- d. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth vest with the Liquidator. 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.;
- e. 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.
- f. 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
- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- j. Copy of this order be sent to the Corporate Debtor, CoC members, Liquidator and RoC, NCT of Delhi & Haryana for taking necessary steps;


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With the above directions, this application i.e., **I.A./3904/ND/2022 in Company Petition No. (IB)-2311 (ND)/2019** is hereby allowed and disposed of.

 - Sdr

(DR.BINOD KUMAR SINHA)
MEMBER (TECHNICAL)

 - Sdr

(SH.BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)