S.No. 7

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
01.07.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

IA(IBC) 562/2021 in CP(IB) No. 329/7/HDB/2018
U/s 7 of IBC, 2016

IN THE MATTER OF:

SREI Equipment Finance Ltd **… Financial Creditor**

Vs

Viswa Infrastructures Finance and Services Pvt Ltd **…Corporate Debtor**

CORAM
DR.VENKATA RAMAKRISHNA BADRINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH.VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

Orders passed in IA No.562/2021, recorded vide separate sheets.
Application is allowed.

Sd/- Sd/-
MEMBER (T) **MEMBER (J)**

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

IA No.562/2021

IN

CP IB No.329/7/HDB/2018

Application filed by the Liquidator under Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

IN THE MATTER OF

M/s SREI EQUIPMENT FINANCE LIMITED

… Financial Creditor

VERSUS

M/s.VISHWA INFRASTRUCTURE AND SERVICES PRIVATE LIMTIED
…Corporate Debtor

<u>AND IN THE MATTER OF:</u>

HEMANTH SHARMA
Liquidator of VISHWA INFRASTRUCTURES SERIVICES PVT. LTD
… Applicant

<u>Date of order: 01.07.2022</u>

Coram:

Dr N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)

Shri Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

Appearance:

For Applicant: Shri .Naresh Kumar Sangam, Advocate

PER BENCH

1. This Application is filed under Regulation 45 (3) (a) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 by the Applicant / Liquidator seeking closure of Liquidation process of **M/s Vishwa Infrastructure Services Private Limited/ Corporate Debtor**.
2. **AVERMENTS IN THE APPLICATION**:-

   2.1 This Tribunal vide order dated 31.08.2018 admitted the Company Petition bearing CP (IB) NO.329/7/HDB/2018 filed by Financial Creditor/Petitioner and Corporate Insolvency Resolution Process commenced against the Corporate Debtor M/s. Vishwa Infrastructure and Services Private Limited by appointing Shri Hemant Sharma, as Interim Resolution Professional who was later confirmed as Resolution Professional. COC had rejected the Resolution plan submitted by prospective resolution applicant in the e-voting of the 10th COC meeting held on 27.05.2019. Thus Applicant filed an application for liquidation wherein this Tribunal on 14th June, 2019 passed an order in CA No.353/2019 preferred by the Applicant for liquidating the Corporate Debtor Company by appointing the Applicant herein as Liquidator of the Corporate Debtor M/s Vishwa Infrastructures and Services Private Limited.

   2.2 Pursuant to the order of initiation of liquidation proceedings, the Applicant carried out the liquidation process of the Corporate Debtor and submitted the progress reports and issued publication of notice in Form-B of Schedule-2 for inviting creditors to submit their claim and constitution of Stake holder Committee.

2.3 The Applicant thereafter filed an application seeking directions from the Tribunal for selling the Corporate Debtor as ‘Going Concern’ wherein this Tribunal vide its order dated 18.01.2021 allowed the said application and directed the Applicant to proceed with the sale of the Corporate Debtor as ‘Going Concern’.

2.4 Pursuant to the discussion with the stakeholders, the liquidator made the publication of the E-sale Notice on 08.02.2021 in Business Standard(English) and Sakshi (Telugu) News Papers. It is averred that vide email dated 01.03.2021, bidder namely, Indus Projects Private Limtied submitted the interest along with duly signed stamped and notarized Bid documents. The said bidder later informed that they are incorporating a Special Purpose Vehicle for the purpose of the bidding and the incorporation was in an advanced stage and the same was named as Indvis Holding Private Limited.

2.5 The liquidator apprized the lenders that a total bid of Rs.57 Crores was submitted by the qualified bidder i.e Indvis Holding Private Limited in the E-Auction held on 07.03.2021 for sale of Corporate Debtor as going concern.

2.6 It is averred that this Tribunal vide order dated 30.06.2021 allowed the Application i.e IA No.157/2021 and approved the sale of the Corporate debtor as “Going Concern”. Pursuant to the order the Applicant issued Sale Certificate dated 07.07.2021 in accordance with 35(a)(2) fo the Code with Schedule I Entry 1(13) of the Insolvency and Bankruptcy Board of India(Liquidation Process) Regulations, 2016 to the Successful Bidder.

2.7 It is averred that the entire Bank Guarantee Commission Charges has been paid to the respective Stakeholders in the full. The Applicant has also carried out the distribution of proceeds to the stakeholders in accordance with Section 53(1) of the Code.

2.8 The details with respect to the distribution is given in detail in the Form H , which forms a part of the final report of the Applicant. The copy of Form-H along with annexures are annexed as **Annexure-A3.**

2.9 The Applicant filed the Judgement of Hon'ble NCLAT in re Mohan Gems & Jewels Private Limited vs Vijay Verma &Anr. CA(AT) (I) No.849/2020 wherein it was held that in view of the scope and spirit of the Code, read with Section 54 of the Code, Regulation 39 C of the CIRP Regulations, Regulations 32(e) &(f) , 32A and 45(3) of the Liquidation Process Regulations a liquidator is well within its right to sale the corporate debtor as going concern to prevent it from the corporate Death of liquidation. A copy of Judgment is annexed as Annexure-4 to the Application.

3. We heard the Liquidator and perused the application filed by the Liquidator. He has filed necessary documents along with the application. The Final report in Form-H is filed as Annexure A-3. This IA is filed under Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 praying the Adjudicating Authority to order for closure of the liquidation process of the Corporate Debtor Company as liquidation process is complete. The said provision reads as under:-

*"**<u>Regulation 45 (3) (a): Final report prior to dissolution</u>**.*

(3) The liquidator shall submit an application along with the final report and the compliance certificate in form-H to the Adjudicating Authority for –

<u>(a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or</u>

4. The Liquidator would contend, pursuant to public announcement for e-auction M/s.Indvis Holdings Private Limited, qualified bidder participated in the e-auction held on 07.03.2021 and was declared as successful bidder. On-going through the facts aforementioned and the material placed along with the Application, it is evident that the assets of Corporate Debtor were sold to Indvis Holding Private Limited for Rs. 57 Crores. It is seen from Form-H that the amount of Rs. 57 Crores was distributed as per Section 53(1) of I&B Code, 2016. The details of distribution is at Annexure- A-3 of the Final Report. The Applicant filed and Application bearing IA No. 157 of 2021 by placing on record the terms and conditions as submitted by the successful bidder along with objections/suggestions of the stakeholders in the ongoing sale of the corporate debtor as going concerns. This Tribunal vide order dated 30.06.2021 allowed the Application and approved the sale of corporate debtor as going concern , facilitating the successful bidder to purchase the Corporate Debtor/ VISHWA INFRASTRUTURES SERVICES PVT LTD as a going concern. Further by going through the final report, it is evident that the Liquidator has sold the Corporate Debtor as a going concern as such it is a fit case for closure of Liquidation process.

5. As a sequel to the above, we hereby order closure of the Liquidation proceedings against the Corporate Debtor viz. **VISHWA INFRASTRUTURES SERVICES PVT LTD** from the date of this Order, in terms of Regulation 45 (3) of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Consequently, the Liquidator stands relieved.

6. The Liquidator is directed to send the copy of this Order within 7 days from the date of pronouncement to the Registrar of Companies, Hyderabad and

the concerned authorities and hand over all the books and files of the Corporate Debtor **M/s VISHWA INFRASTRUTURES SERVICES PVT LTD** which are in possession of the Liquidator to the successful bidder.

7. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad and concerned authorities for updating the master data.

8. A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.

9. In terms of the above, **IA No. 562 of 2021** stands disposed of accordingly.

Sd/-	Sd/-
Veera Brahma Rao Arekapudi	**Dr. N.V.Ramakrishna Badarinath**
Member Technical	**Member Judicial**

Pavani