

S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
25-05-2023 AT 11:00 AM

IA (IBC) 450/2023 in CP (IB) No. 275/7/HDB/2022
u/s. 7 of IBC, 2016

IN THE MATTER OF:

M/s. SunEdison Energy India Private Limited

...Financial Creditor

VS

M/s. KSK Energy Company Private Limited

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

ORDER

IA 450/2023:

Orders pronounced, recorded vide separate sheets. In the result, liquidation proceedings against the Corporate Debtor / M/s KSK Energy Company Private Limited is ordered as per the terms mentioned therein. Shri Krishna Komaravolu, Insolvency Professional is appointed as Liquidator.

According, IA 450/2023 is allowed and disposed of.

SD/-

MEMBER (T)

SD/-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

**IA (IBC) 450/2023 in
CP (IB) No. 275/7/HDB/2022**

Under Section 33(2) read with Section 34 of the Insolvency and Bankruptcy Code, 2016.

In the matter of M/s. KSK Energy Company Private Limited

Filed by:

Krishna Komaravolu
Resolution Professional
KSK Energy Company Private Limited
IBBI/IPA-002/IP-N00562/2017-2018/11699
H.No. 7-1-214, Flat No.409,
Vamsikrishna Apartments,
Dharam Karan Road, Ameerpet,
Hyderabad – 500016.

... Applicant/Resolution Professional

Date of Order: 25.05.2023

Coram:-

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member
(Judicial)
Shri. Charan Singh, Hon'ble Member (Technical)

Appearance:-

For the Applicant: - Shri M.Viswaraj, Counsel
Resolution Professional: Shri Krishna Komravolu.

PER: BENCH

1. This is an application filed by the Resolution Professional (hereinafter referred to as “RP”) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) praying this Adjudicating Authority to order liquidation of M/s. KSK Energy Company Private Limited (hereinafter referred to as “Corporate Debtor”).
2. **The gist of the Application in brief:**
 - a. It is stated that this Adjudicating Authority vide order dated 23.12.2022 allowed the application filed by the Financial Creditor under section 7 of the I&B Code, 2016 and admitted the Corporate Debtor into Corporate Insolvency Resolution Process and appointed Mr. Krishna Komaravolu as Interim Resolution Professional (IRP).
 - b. On 25.12.2022 Public Announcement was issued by the Interim Resolution Professional inviting claims from the creditors. Resolution professional received claims from two financial creditors subsequent to the constitution of CoC on 13.01.2023. Thus filed IA No.143 of 2023 before this Tribunal regarding Constitution of CoC, which has been taken on record vide order dated 01.02.2023.
 - c. It is averred that 1st CoC meeting was held on 20.01.2023 in which the CoC had resolved to appoint Mr. Krishna Komaravolu, as Resolution Professional in terms of Section 22(2) of IBC 2016.

- d. It is averred that in the first COC meeting IRP has explained the members of the CoC about the current status of the Company in which the Cash and bank balance of the Company as on 23.11.2022, is Rs.11.15 lacs. Out of which, there is attachment of Rs.10.37 lacs by Income Tax Department, thereby the remaining balance is Rs. 0.78 lacs. Thus the members of the CoC sought the procedure and applicable provision of the Code for an early liquidation as there are no assets in the Company and it may not receive any resolution plans. The IRP apprised the CoC on the applicability of Section 33(2) of IBC 2016 in the present situation which reads as below:

Section 33 (2):

“Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors (approved by not less than sixty-six per cent. of the voting share) to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).”

- e. It is averred that as there are no assets, the members of COC are of the opinion that there is no need for conducting valuation of the corporate debtor. The last audited balance sheet of 31.03.2022 is sufficient for filing the liquidation application. The Resolution for liquidating the corporate debtor has been

approved by the COC with 99.18% voting share and suggested the IRP Shri Krishna Komaravolu as Liquidator.

3. We have heard the Learned Counsel for the Applicant/RP and learned RP. Perused the record. From the above, it would appear that despite all possible steps as required under the Code taken during the CIRP, the CoC did not receive any viable resolution plan/proposal for revival of the Company. The CoC in its wisdom has resolved in favour of the liquidation of the Company. This Adjudicating Authority has no reason before it to take a contrary view in terms of Section 33 (2) of the Code. Therefore, we have no option than to pass an order of liquidation of the Company in the manner laid down in Chapter-III of the Code.

ORDER

- A.** This Adjudicating Authority hereby orders liquidation of the Corporate Debtor, i.e., KSK Energy Company Private Limited, which shall be conducted in the manner as laid down in Chapter III of the Code;
- B.** Shri. Krishna Komaravolu having IP registration no. IBBI/IPA-002/IP-N00562/2017-2018/11699, is hereby appointed as Liquidator;
- C.** He shall issue public announcement stating that the Corporate Debtor is in liquidation in terms of Regulation 12 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- D.** The moratorium declared under Section 14 of the Code, shall cease to have effect from the date of the order of liquidation;

E. Subject to Section 52 of the Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

F. All the powers of the Board of Directors, Key Managerial Personnel and partners of the corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

G. The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

H. Personnel connected with the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as would be required for managing its affairs.

I. The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34(8) of the Code.

J. The Applicant is directed to serve the copy of this order to Registrar of Companies, Regional Director, Official Liquidator of Hyderabad, Registered office of the Corporate Debtor for information and compliance.

Sd/-

Charan Singh
Member Technical

Sd/-

Dr. Venkata Ramakrishna Badarinath Nandula
Member Judicial

Swapna/pavani