

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

IA/57/CHE/2023 in IBA/938/2019

(Filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

In the matter of OREN HYDROCARBONS PRIVATE LIMITED

Radhakrishnan Dharmarajan

RP of M/s Oren Hydrocarbons Private Limited

No.31, Third Floor, Krishna,

1st Avenue, 100 feet Road,

Ashok Nagar,

Chennai- 600 083.

... Applicant

Order Pronounced on 10th May 2023

CORAM:

JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT

SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : *T. Ravichandran, Advocate*

ORDER

Per: JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT

The hearing of this Application was conducted through video conferencing mode.

2. This is an application filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 seeking to pass an order of liquidation against the Corporate Debtor viz., Oren Hydrocarbons Private Limited.

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated on 24.02.2021 and appointed one Mr. N. Ashokan as the Interim Resolution Professional



("IRP" for brevity) and the IRP had caused the Public Announcement on 12.03.2021. The said public announcement copy is placed as Annexure A2 of the Application typeset.

3. It was submitted the Ld. Counsel for the Applicant that COC was constituted with 7 Financial Creditor's members. The list of CoC members along with the voting share is extracted hereunder

S. NO	NAME OF THE FINANCIAL CREDITOR	% OF VOTING SHARE
1	IDBI Bank Limited	30.50
2	Standard Charter Bank	25.15
3	ICICI Bank Limited	13.55
4	Indusland Bank Limited	10.84
5	State Bank of India	5.27
6	Axis Bank	13.89
7	Tata Capital Financial Services Limited	0.80

4. It is submitted by the Applicant that the promoter of the Corporate Debtor filed Company Appeal (AT) (CH) (Insolvency) No. 24 of 2021 before the Hon'ble NCLAT challenging the initiation of CIRP against the Corporate Debtor. The NCLAT disposed of the said matter in order dated 26.03.2021 and permitted the withdrawal of the said Appeal with a liberty to file a Section 12A Application before this Tribunal.





5. It is averred in para 12 of the Application that, the Applicant filed IA/879/2022 and IA/865/2022 before this Tribunal seeking exclusion and extension of the CIRP period of the Corporate Debtor. This Tribunal disposed of IA/879/2022 vide order dated 22.08.2022 and excluded 342 days out of the CIRP period of the Corporate Debtor. Further IA/865/2022 was allowed by this Tribunal in order dated 22.08.2022 extending the CIRP of the Corporate Debtor for 90 days.

6. Further IA/1516/2022 filed by the Applicant seeking time to complete the CIRP of the Corporate Debtor was dismissed as infructuous by this Tribunal vide order dated 09.02.2023.

7. It is averred in para 14 of the Application that there are total 14 COC meetings which have been conducted with regard to the CIRP of the Corporate Debtor herein. The minutes of the COC meetings from 01-14th are placed as *Annexure A10colly* of the Application typeset.

8. It is averred in para 16 of the Application that FORM G dated 21.02.2022 was published pursuant to the 4th COC meeting held on 10.02.2022.

A handwritten signature in green ink, consisting of a stylized 'h' followed by a checkmark-like flourish.



9. Pursuant to the said FORM G dated 21.02.2022 , 3 EOI's (Expression of Interest) was received by the Applicant, namely from Rizwan Ahmad (Promoter), Proec Energy Limited and Agrigo Trading Private Limited. Further only Rizwan Ahmad (Promoter) & Agrigo Trading Private Limited submitted the Resolution plans and the same was placed by the Applicant before the COC for consideration.

10. It is averred in para 18 of the Application that after deliberations and modifications suggested, both the resolution plan was put to voting in the 13th COC meeting held on 08.12.2022. Further it is seen that the plan submitted by one Mr.Rizwan Ahmad (Promoter), was approved by the COC with 80.84% of the total voting share and the Successful Resolution Applicant (SRA) was required to submit performance bank guarantee within 2 business days as per clause 1.8 of the RFRP.

11. It is averred in para 21 of the Application that the SRA failed to submit the performance bank guarantee as per the timelines prescribed. Thus with no other option left rather than to liquidate the Corporate Debtor, the COC in the 14th meeting resolved to file for liquidation of the Corporate Debtor. **Further it is averred in para 21 of**



the Application that the COC with majority of 68.70% had decided to liquidate the Corporate Debtor and 74.74% of the Corporate Debtor had resolved to appoint the Applicant as the liquidator. The said resolution is extracted hereunder:-

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Right2Vote
Oren Hydrocarbons Private Limited

Created By: R Dharmarajan
Start Time: 19 Dec 2022, 07:22 pm (IST)
End Time: 28 Dec 2022, 07:59 pm (IST)

“RESOLVED THAT the initiation of liquidation process of Corporate Debtor in terms of Section 33(2) of the IBC, 2016 is hereby approved and an application in the regard shall be filed by the Resolution Professional”.

12. Form H dated 06.01.2023 has been filed by the Applicant as *Annexure A14* of the Application typeset. The same is taken on record.

13. Heard the submissions of the Ld. Counsel for the Applicant and perused the documents placed on record. In the 14th COC meeting held on 24.02.2021, the COC with a voting share of 68.70% has resolved to liquidate the Corporate Debtor as averred *supra*.

14. The said voting percentage of 68.70% satisfies the minimum statutory mandate in terms of Section 33 (2) of the IBC, 2016 which is as follows:-



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 percent 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).”

15. Further it is also pertinent to note that the Ld. Counsel for the Applicant appeared and stated that as *“no resolution plans”* pending as on date for consideration before the COC and taking into note the CIRP period of the Corporate Debtor has expired on **28.12.2022**, the COC had resolved to place the Corporate Debtor for liquidation. Further, this Application for liquidation of the Corporate Debtor has been filed by the Applicant only on **09.01.2023**. Any delay in filing the Application stands condoned. In such circumstances, this Adjudicating Authority concludes that this present application deserves to be **allowed**.

16. It is also seen from the records that the Applicant herein has accorded the written consent to act as the Liquidator of the Corporate Debtor and 74.74% of the COC has resolved to appoint the Applicant



as the liquidator. The Form AA of the Applicant is placed as *Annexure A15* of the Application typeset.

17. In the above said circumstances this Tribunal is left with no other choice but to liquidate the Corporate Debtor. We hereby order liquidation of the Corporate Debtor. Therefore **Mr. Radhakrishnan Dharmarajan** with Registration No: *IBBI/IPA-001/IP-P00508/2017-2018/10909* (**email id:** *dharma.rdh@gmail.com*) is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions:-

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 as amended upto date enjoined thereupon.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.



- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

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- j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

18. With the above directions, this IA/57/CHE/2023 stands **allowed**.

- Sd -

SAMEER KAKAR
MEMBER (TECHNICAL)

Vinita Varshini.K

- Sd -

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT