

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

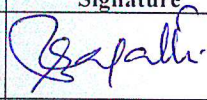
PRESENT: HON'BLE SHRI K ANATHA PADMNABHA SWAMY- MEMBER JUDICIAL

PRESENT: HON'BLE SHRI BINOD KUMAR SINHA - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 21.01.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA NO. 39/2020 in CP (IB) NO. 540/9/HDB/2018
NAME OF THE COMPANY	Acaricide India Pvt Ltd
NAME OF THE PETITIONER(S)	VIP Industries
NAME OF THE RESPONDENT(S)	Acaricide India Pvt Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
JVL Bharati (PwRD)	Adv	9958601847	

Counsel for Respondent(s):

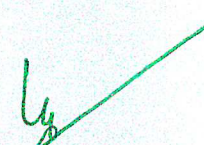
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

IA No.39/2020.

Order pronounced in open court. IA allowed vide separate order.


MEMBER TECHNICAL


MEMBER JUDICIAL

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

**IA No.39/2020
In
CP(IB)No.540/9/HDB/2018**

In the matter of:

M/s. Acaricide India Private Limited
2nd Floor, MIG-88 Road No.1,
KPHB Phase-1, KPHB Colony,
Hyderabad, TG 5000
(Rep. by Mr.Madasa Kumar, RP)

**...Applicant/
Corporate Debtor**

Order pronounced on: 21.01.2020

**Coram: K. Anantha Padmanabha Swamy, Member Judicial
Dr. Binod Kumar Sinha, Member Technical**

Parties/ Counsels Present:-

Mr.Madasa Kumar, RP
Ms.JVL Barati, Advocate for RP

Per: K. Anantha Padmanabha Swamy, Member Judicial

ORDER

1. The present Application bearing IA No. 39/2020 in CP(IB)No.540/9/HDB/2018 is filed by Resolution Professional U/s. 33 of the IB Code, 2016 inter-alia praying to pass an order of Liquidation against the Corporate Debtor herein and to appoint the RP as the Liquidator.
2. It is stated that on 09.07.2019, this Adjudicating Authority has admitted the Company Petition bearing No. CP (IB) No. 540/9/HDB/2018, and appointed the Applicant herein as the Interim Resolution Professional (IRP) who continued as Resolution Professional with the consent of Committee





of creditors in the 1st CoC meeting held on 16.08.2019. The memo in this regard was filed with NCLT-Hyderabad on 22.08.2019.

3. It is stated that the IRP visited the Registered Office of the Corporate Debtor (CD) situated at 2nd Floor, MIG-88, Road no 1, KPHB phase-1, KPHB Colony, Hyderabad – 500072 on 19.07.2019 and took control of the Records of the Company and visited the unit located at Satuluru Village, Nadendla Mandal, Guntur Dist and took custody of its assets. The company owns a piece of land admeasuring Ac 5.32 which is abutting the main road in the village apart from the unit which is offered as collateral security to SBI for the working capital limits availed. The unit was not in operation at the time of the visit and takeover of the unit by RP. The operations of the unit could not be resumed as the Industry operates on credit and that the creditors did not evince interest in supply of raw material on credit. The unit is defunct since June 2019.
4. It is stated that the COC in the meeting held on 02.12.2019, had approved the Information Memorandum and Evaluation Matrix to be issued to prospective Resolution Applicants.
5. It is stated that a publication in Form-G as required under Regulation 36A(1) inviting expression of interest in Financial Express and Nava Telangana daily newspapers on 20.09.2019 was issued fixing last date for receipt of EOIs as 07.10.2019. Since there was no response to the publication, Form-G was re-published with the approval of the COC on 10.10.2019.
6. In response to the re-published Form-G, two EOIs have been received i.e, from a) SSL Enterprises, Hyderabad and b) Chems India, Hyderabad. However, both the Prospective Resolution Applicants have not submitted the Resolution Plans. Hence a Committee of Creditors meeting was convened on 12.12.2019. The COC decided to go for liquidation of the

Corporate Debtor. Further the committee advised the Resolution Professional to act as Liquidator.

7. The CoC in its 6th meeting held on 12.12.2019 with sole CoC member has resolved “.... *The Committee after detailed deliberation decided to push the Company for Liquidation and advised the RP to file for Liquidation of the Company with the NCLT, Hyderabad.....*”

8. Heard the RP and perused the records.

9. In view of the facts and circumstances recorded by RP in IA No.39/2020 filed in CP(IB) No. 540/9/HDB/2018, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 before the expiry of period for completion of CIRP envisaged U/s. 12(1) of the Code. Further the RP intimated this Adjudicating Authority of the decision of CoC taken unanimously to liquidate the Corporate Debtor in terms of provisions of Sec.33(2) of the Code. Therefore, in exercise of powers conferred under Sub-Clauses (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, we proceed to pass Order as follows:—

(i) This Adjudicating Authority hereby order for Liquidation of M/s. Acaricide India Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

(ii) This Adjudicating Authority hereby appoint Mr.Madasa Kumar IBBI Reg No. IBBI/IPA-001/IP-P01590/2019-2020/12465 who has given his consent letter dated 20.12.2019 to act as Liquidator in the present case. He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;

(iii) The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;

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- (iv) Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- (v) We make it clear that para (iv) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- (vi) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the Liquidation process by the Liquidator.
- (vii) All the 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 in the Company Liquidator viz., Mr. Madasa Kumar. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (viii) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- (ix) The Liquidator shall keep in view the provisions of Regulation 32A of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the

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assets of the Corporate Debtor under clauses (a) to (d) of Regulation 32 of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016.

(x) The Company Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in such a proportion to the value of the Liquidation estate assets as specified by the Board under Regulation 4(3) of IBBI (Liquidation Process) Regulations, 2016. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation estate.

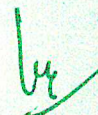
(xi) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr.Madasa Kumar for information and compliance.

(xii)Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.

11. In terms of the above, IA No. 39 of 2020 filed in CP(IB) No. 540/9/HDB/2018 by the RP under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Acaricide India Private Limited, stands **disposed off**.


21.01.2020

Dr.BINOD KUMAR SINHA
MEMBER (TECHNICAL)



K.ANANTHA PADMANABAHA SWAMY
MEMBER (JUDICIAL)