

S.No.25

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
10-02-2023 AT 10:30 AM

**IA (IBC) 1399/2022 & IA (IBC) 120/2023 in 1399/2022 in
CP (IB) No.81/9/HDB/2021**
U/s 9 of IBC, 2016

IN THE MATTER OF:

Tata Hitachi Construction Machinery
Company Pvt Ltd

...Operational Creditor

Vs

CL Engineering Equipment (India) Pvt Ltd

...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 (IBC) 120/2023 in 1399/2022

Ld. Counsel Shri. Srikanth Rathi for the Applicant present.

This is an application filed by the RP praying for amending the prayer in IA (IBC) 1399/2022, to Condone the delay of 33 days in filing the Application, to initiate liquidation of the CD and also to take on record the asset tracking report dated 28.10.2022 issued by the Applicant of the CD. Heard the Counsel for the Applicant. Peruse the record. IA No.120/2023 is allowed, delay condoned. IA is disposed of accordingly.

IA (IBC) 1399/2022

This is an application filed by the RP under Section 33(2) of I & B Code, seeking initiation of liquidation of the Corporate Debtor and also to take on record the asset tracking report dated 28.10.2022 issued by the Applicant of the CD.

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It is averred that the liquidation costs be borne by Secured Creditors of the CD which was approved with 100% voting rights as the committee resolved for sale of all assets in terms of clause (d) of Regulation 32 of IBBI Regulations, 2016 within a period of 90 days. Considering the fact that the last audited balance sheet of the CD was related to 2013-14, tax returns and negligible assets found in the name of the CD ever since, the Applicant with 100% voting rights of the COC proposes for liquidation of CD u/s 33(2) of the code. In the 4th COC meeting the members also resolved to appoint the Applicant herein as Liquidator and the consent form to appoint the Applicant as Liquidator is annexed as Annexure-5.

It is further submitted CIRP had expired on 16.10.2022 but on account of the fact that asset tracing report was still awaited, the COC meeting couldn't be held before the stipulated time. As there were no tangible assets available, the Applicant conducted the asset tracking exercise, as such a delay of 15 days from 16.10.2022 due to stagnant mode of CIRP and inactivity from the CD caused the delay.

Heard the Counsel for the Applicant. Peruse the record. Prayers in this application are accordingly allowed and we hereby order liquidation proceedings against the corporate debtor in accordance with the provisions of the code. Thus, the Application is accordingly allowed with the following directions: -

- (a) The Corporate Person i.e., CL Engineering Equipment (India) Private Limited shall be liquidated in the manner laid down in Chapter-III of the Code.

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- (b) The Applicant CA Kamal Prakash Singh, presently Resolution Professional of CL Engineering Equipment (India) Private Limited is appointed as Liquidator.
- (c) He shall issue public announcement stating that the Corporate Debtor is in liquidation.
- (d) The Moratorium declared under Section 14 of the Code shall cease to operate here from.
- (e) Subject to Section 52 of the Code, 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 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 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) Accordingly, IA (IBC) 1399/2022 is disposed of.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)