

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH at AHMEDABAD
COURT-1**

IA 545 of 2019 in TP 161 of 2019 [CP(IB) 19 of 2017]

**Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF INDORE BENCH AT
AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 29.05.2020**

Name of the Company: Abhishek Nagori (Liquidator of Asian Natural
Resources (India) Ltd)

V/s

Asian Natural Resources (India) Ltd

Section 33(5 r.w. 35(1) (k) IBC, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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ORDER

The case is taken up through video conferencing.

The case is fixed for pronouncement of order today.

The order is pronounced in open Court as order in detail is recorded vide separate sheet.


**(PRASANTA KUMAR MOHANTY)
MEMBER (TECHNICAL)**


**(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)**

Dated this the 29th of May, 2020

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
INDORE BENCH
AHMEDABAD**

I.A. No. 545 of 2019
in
C.P. (I.B.) No. 19/7/NCLT/AHM/2017

In the matter of:

Mr. Abhishek Nagori,
Liquidator of Asian Natural Resources (India) Limited,
C/o JLN US & Company,
330/348, Third floor,
Tower A, Atlantis – K10
Opp. Vadodara Central,
Sarabhai Main Road,
Vadodara 390 007

.....Applicant

Versus

Asian Natural Resources (India) Limited
Corporate Debtor
Having registered office at
102, Sundram Complex,
Gurmeet Nagar,
Indore 452001

.....Respondent

Order delivered on 29.05.2020

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
Hon'ble Mr. Prasanta Kumar Mohanty, Member (T)**

Appearance: Mr. Nipun Singhvi, Mr. Vishal J Dave and Pratati Tiwari,
Advocates for the Liquidator. Mr. Arjun Sheth, Ms. Vidhi Thakkar and
Mr. Navin Pahwa for the Suspended Management

[Per: Mr. Prasanta Kumar Mohanty, Member (T)]

1. The present application is filed by the Liquidator of Asian Natural Resources (India) Limited under section 33(5) read with 35(1)(k) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as Code) for seeking permission from this Adjudicating Authority

for initiation/continuation of legal pending proceedings as instituted by/against the Corporate Debtor.

2. It is stated that Corporate Insolvency Resolution Process (hereinafter referred to as CIRP) was initiated against the Corporate Debtor by one of the Financial Creditors viz. IDBI Bank. Vide order dated 23.05.2017 this Adjudicating Authority admitted the application filed under Section 7 of the Code.
3. It is further stated that based on the decision of the Committee of Creditors (hereinafter referred to as CoC) in its meeting held on 05.01.2018, the erstwhile Resolution Professional filed an IA No. 45 of 2018 for liquidation of the Respondent Company. This Adjudicating Authority vide its order 09.02.2018 admitted the liquidation application and appointed the Applicant as a Liquidator of Asian Natural Resources (India) Limited, the Corporate Debtor Company.
4. The Applicant submits that as per the provisions of the Section 14(4) of the Code, the order of moratorium shall have effect from the date of order till the completion of the CIRP i.e. period till the approval of the resolution plan by the Adjudicating Authority under section 31(1) of the Code or passing of the liquidation order of the Corporate Debtor under section 33 of the Code.
5. It is further submitted in the present case that since the CIRP has already been over and this Adjudicating Authority has already admitted the liquidation application and appointed the Applicant as a Liquidator for the liquidation of the Corporate Debtor in accordance with the provisions of the Code, moratorium is no more effective and it became inoperative as soon as CIRP period was over and liquidation order passed.
6. The Applicant further submits that once moratorium gets over after expiry of CIRP period, all pending litigation irrespective of whether instituted by the Corporate Debtor or initiated against the Corporate Debtor, would resume from the same stage meaning

thereby litigation kept in abeyance, in view of the imposition of moratorium under section 14 of the Code. Therefore, it is the duty of the Liquidator to continue the pending legal proceedings as well and if require, initiate fresh legal proceedings for the beneficial liquidation of the Corporate Debtor.

7. The Applicant submits that Section 35(1)(k) of the Code cast an obligation on the Liquidator to defend the legal proceedings as instituted against the Corporate Debtor and/or continue/institute the fresh legal proceedings on behalf of the Corporate Debtor for effective and beneficial liquidation of the Corporate Debtor. The Applicant further submits that proviso to sub section (5) of Section 33 of the Code cast an obligation on the liquidator to take prior approval of the Adjudicating Authority before initiation of any fresh legal proceedings/suit on behalf of the Corporate Debtor.
8. It is submitted by the Applicant that subsequent to the order dated 15.04.2019, two more litigation proceedings came into the knowledge of the Liquidator. The details of the pending litigation are as under:

Sr. No.	Case Title	Forum	Case Description
1	Illiyash Mines and Minerals Pvt. Ltd. Vs Asian Natural Resources (India) Limited	District Court, Indore	Application filed to challenge Arbitration Award
2	Madhya Pradesh Power Generating Company Vs. Asian Natural Resources (India) Limited	Madhya Pradesh High Court	Application for appointment of arbitrator

10. The Applicant has made the following prayers among others:

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10.1 Accord the permission to Liquidator to continue the two legal proceedings as mentioned hereinabove in Para 8 of this order.

10.2 Accord permission to Liquidator to initiate fresh legal proceedings on behalf of the Corporate Debtor for the beneficial liquidation of the Corporate Debtor.

11. Observations and Judgment:

11.1 This Adjudicating Authority is of the considered view that present application made by the Liquidator is for the beneficial liquidation of the Corporate Debtor.


11.2 Section 35(1)(k) of the Code cast an obligation on the Liquidator to defend the legal proceedings as instituted against the Corporate Debtor and/or continue/institute the fresh legal proceedings on behalf of the Corporate Debtor for effective and beneficial liquidation of the Corporate Debtor and the Liquidator has filed this application Section 33(5) of the Code to seek permission of this Adjudicating Authority to permit him to continue the two legal proceedings as mentioned hereinabove in para 8 or the order.


11.3 Accordingly, this Adjudicating Authority hereby permit the Liquidator to continue the two legal proceedings as mentioned hereinabove in para 8 of the order. However, the Liquidator is directed not to file any fresh proceedings and if any need arises in future, the Liquidator shall take prior permission of this Adjudicating Authority.

11.4 Since more than 2 years have been passed since the initiation of the Liquidation Process, the Liquidator is hereby advised to adhere to the time limit as stipulated for completion of Liquidation process and perform all his functions and duties contemplated inter alia in Section 35, 36, 37, 38, 39, 40, 41, 43, 45, 50, 53, 54 of Insolvency and Bankruptcy Code, 2016 and Rules of 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 23, 25, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42,

44, 45 & 46 of Insolvency and Bankruptcy Board of India
(Liquidation Process) Regulations, 2016 with utmost dedication,
honesty and strictly in accordance with the provisions of the Code,
Rules and Regulations

11.5 The instant IA is disposed of accordingly with the above
observations and instructions.


(Prasanta Kumar Mohanty)
Adjudicating Authority
Member (Technical)


(Harihar Prakash Chaturvedi)
Adjudicating Authority
Member (Judicial)

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