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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL

PRESENT: HON'BLE BINOD KUMAR SINHA – MEMBER TECHNICAL*

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 29.11.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA NO. 575/2019 in CP(IB) NO.354/9/HDB/2018
NAME OF THE COMPANY	Ceeyes Software Technologies Pvt Ltd
NAME OF THE PETITIONER(S)	Touchstones Consultants
NAME OF THE RESPONDENT(S)	Ceeyes Software Technologies Pvt Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

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

Counsel for Respondent(s):

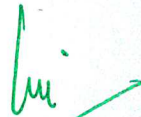
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Orders pronounced in open court. IA for Liquidation allowed vide separate order.



MEMBER TECHNICAL



MEMBER JUDICIAL

AS

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

**IA No.575/2019
In
CP(IB)No.354/9/HDB/2018**

In the matter of:

M/s. Ceeyes Software Technologies Pvt. Ltd.

Between:

M/s. Ceeyes Software Technologies Pvt. Ltd.
Azam Complex, Shivam Road, Bagh Amberpet,
Hyderabad, Telangana State – 500013.
Rep by. Mr.Ram Murthy Kommera, Resolution Professional

...Applicant

Order pronounced on: 29.11.2019

**Coram: Shri. K. ANANTHA PADMANABHA SWAMY, MEMBER JUDICIAL
Dr. BINOD KUMAR SINHA, MEMBER TECHNICAL**

Parties/ Counsels Present:-

Mr.Ram Murthy Kommera, RP

Mr.A.Venkatesh, Advocate for Operational Creditor

Per: Dr. Binod Kumar Sinha, Member Technical

ORDER

1. The present Application bearing IA No.575/2019 in CP(IB)No.354/9/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.
2. It is stated that the Applicant Company was admitted for commencement of CIRP Process vide Order dated 13.02.2019.
3. It is stated that the Interim Resolution Professional made a Public Announcement on 20th February, 2019 intimating the commencement

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of Corporate Insolvency Resolution Process in the matter of M/s. Ceeyes Software Technologies Pvt. Ltd. inviting the creditors to submit their Claims.

4. It is stated that the IRP has constituted the CoC and conducted First CoC Meeting on 19.03.2019. In the 1st CoC meeting it was resolved to continue the IRP as RP in terms of Section 22(2) r/w Section 22(3)(a) of IB Code, 2016.
5. In the 2nd CoC meeting, held on 01.05.2019, CoC has resolved to dispense with the appointment of Valuers and Auditors as there are no movable or immovable properties of Corporate Debtor.
6. It is stated that in the 3rd CoC Meeting, dated 24th May, 2019 it was discussed that *'in view of the Status and Situation of the Corporate Debtor that, there is no possibility of receipt of any Expression of Interest (EoI's) from Resolution Applicants (R.As) if Form-G is published, inviting the resolution Applications, as such, the Members of CoC with 100% voting Share felt that issuing of form G, is nothing but a futile exercise'*. Thus the Members of CoC with 100% voting Share decided not to give any Paper publication of Form G, inviting Expression of Interest (E.O.I.) and "RESOLVED NOT ISSUE FORM-G, PUBLICATION".
7. It is stated that in the 4th CoC Meeting, held on 14.06.2019, CoC with 100% Voting Share has decided to recommend the Corporate Debtor for liquidation, and "resolved that the properties of the corporate debtor be liquidated" and further resolved to obtain an order of liquidation of the corporate debtor by name m/s. Ceeyes software technologies pvt. Ltd.
8. It is further stated that in absence of any Resolution Plans, the CoC in its 4th CoC meeting, held on 14.06.2019, authorized the Resolution

Professional to take appropriate actions as per the provisions of the I&B Code, 2016. The Resolution Professional, in absence of any Resolution Plan and the time period of 180 days also being elapsed on 12th August, 2019, had no other option but to rely on the provisions of Section 33 of the I&B Code, 2016.

9. RP filed a memo dated 27.09.2019 stating that in pursuance to orders of this Adjudicating Authority dated 16.09.2019 the Sole CoC member/Operational Creditor/Original Applicant in main CP, herein has got published the paper publication in Nava Telangana Telugu daily News Papers dated 19.09.2019 inviting EOI from Resolution Applicants.
10. It is stated that the Applicant/RP is hereby declaring herewith that as of now, no RA came forward with EOI, or even made any enquiry for filing EOI, though the last date for filing EOI was mentioned in the above paper publication as 26.09.2019.”
11. The above averments of RP have also been seconded by the CoC by way of a memo dated 27.09.2019.
12. Heard both sides and perused the records.
13. In view of the facts and circumstances recorded by RP in IA No.575 of 2019 filed in CP(IB) No. 354/9/HDB/2018,, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30. Further Section 33(2) as amended by the IBC (Amendment) Act, 2019, stipulates as under:

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 2 [approved by not less than sixty-six percent. of the voting share] to liquidate the corporate debtor,

Advt.

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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).

[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]

14. In the instant case, the CoC in their fourth CoC meeting held on 14.06.2019, unanimously resolved to liquidate the Corporate Debtor and authorized the RP to intimate this Adjudicating Authority as to their decision to liquidate the Corporate Debtor with 100% voting share. Therefore, in view of provisions of Section 33(2) and 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. Ceeyes Software Technologies Pvt. Ltd., which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- (ii) In relation to appointment of Liquidator, considering the facts and circumstances of the Corporate Insolvency Resolution Process of the instant Corporate Debtor, this Adjudicating Authority deems it proper to appoint the RP to act as the Liquidator. Accordingly, this Adjudicating Authority hereby appoint Mr.Ram Murthy Kommera, IBBI Regd. No. IBBI/IPA-002/IP-N00595/2017-18/11776 to act as Liquidator in the present case who shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;

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- (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;
- (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. Ram Murthy Kommera. 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

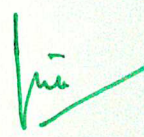




Debtor or its business as a going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the assets of the Corporate Debtor under clauses (a) to (d) of Regulation 32 of Insolvency and Bankruptcy 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. Ram Murthy Kommera for information and compliance.
- (xii) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.
- (xiii) In terms of the above, IA No. 575 of 2019 filed in CP(IB) No. 354/9/HDB/2018 filed 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. Ceeyes Software Technologies Pvt. Ltd., stands **disposed off**.


29.11.19
Dr. BINOD KUMAR SINHA
MEMBER (TECHNICAL)


K. ANANTHA PADMANABAHA SWAMY
MEMBER (JUDICIAL)