NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

6. I.A. 888/2022

IN

C.P.(IB)-4270(MB)/2018

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **26.07.2022**

NAME OF THE PARTIES: CT. Technologies Aps

V/s

Essal Infraprojects Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Resolution Professional, Mr. Amit Tungare is present through virtual hearing.

I.A. 888/2022

Heard counsel appearing for the Petitioner. The above Application is allowed. Detailed order will follow.

List the main company petition on **22.08.2022.**

Sd/-	Sd/-
ANURADHA SANJAY BHATIA	H. V. SUBBA RAO
Member (Technical)	Member (Judicial)

//Rajeev//

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

I.A. 888 OF 2022

IN

CP (IB) – 4270/IBC/MB/2018

Under Section 33 (2) of the Insolvency & Bankruptcy Code, 2016

Filed by

Mr. Jagdish Kumar Parulkar

Resolution Professional for:

B. Y. Agro & Infra Limited

...Applicant

Versus

Mr. Hasan Shafiq & Others.

...Respondents

In the matter of

C.T. Technologies Aps

...Operational Creditor

Versus

B. Y. Agro & Infra Limited

...Corporate Debtor

Order delivered on: 26.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance:

For the Applicant: Mr. Amit Tungare, Advocate and Mr. Jagdish Kumar Parulkar, Resolution Professional

1. The above application I.A. No. 888/2022 is filed by Resolution Professional, Mr. Jagdish Kumar Parulkar (hereinafter referred to as the "Applicant") seeking liquidation of B. Y. Agro & Infra Limited (hereinafter referred to as the "Corporate Debtor") under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

    a. *Allow the present application;*
    b. *Pass an order directing the Corporate Debtor, namely M/s B.Y. Agro & Infra Limited to be liquidated in the manner as laid down under Chapter III of the Insolvency and Bankruptcy Code, 2016.*
    c. *Pass an order appointing Mr. Jagdish Kumar Parulkar as the liquidator of the Corporate Debtor;*
    d. *Pass an order declaring that the liquidator shall be paid fees in accordance with Regulation 4(2)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 for the purpose of liquidation of the Corporate Debtor;*
    e. *Direct that the personnel of the Corporate Debtor shall extend all assistance and cooperation to the liquidator as may be required in managing the affairs of the Corporate Debtor and in discharging his functions as specified under Section 35 of the Code;*
    f. *Pass any other order as this Hon'ble Tribunal may deem fit.*

2. The brief facts of the application are as follows:

    A. The Applicant mentions that this Tribunal vide its order dated 26.05.2020 in Company Petition No. 4270/IBC/MB/C-IV/2018 admitted the petition under Section 9 of the Code, filed by CT – Technologies Aps (hereinafter referred to as the

"Operational Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. Mr. Hajari Lal Saini was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.

B. It is further stated by the IRP that on 14.08.2020 a public announcement was made inviting claims from the Creditors of the Corporate Debtor.

C. On 23.09.2020, the 1st meeting of the Committee of Creditors (hereinafter referred to as the "CoC") took place wherein the Applicant was appointed as the RP of the Corporate Debtor by the CoC, which was duly approved by this Tribunal vide order dated 25.11.2020.

D. The Applicant further states that in the 14th CoC meeting dated 22.10.2021 the CoC with 89.06% voting decided to opt for Liquidation of the Corporate Debtor. The relevant extract of the resolution is reproduced herein below for ready reference:-

Resolution No. 2 – To approve the liquidation of Corporate Debtor:

*"**RESOLVED THAT** B Y Agro and Infra Limited, Corporate Debtor be liquidated under Section 33(2) of the Insolvency & Bankruptcy Code, 2016 as no appropriate resolution could be found during Corporate Insolvency Resolution Process commenced on 26.05.2020 vide an order of Hon'ble NCLT, Mumbai Bench."*

*"**RESOLVED FURTHER THAT** the Resolution Professional be and is hereby authorized to file an application before the Hon'ble NCLT, Mumbai Bench, for liquidating the Corporate Debtor under section 33(2) of Insolvency and*

Bankruptcy Code, 2016 as approved by the members of committee of creditors."

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 14th CoC meeting that the CoC with 89.06% voting decided to liquidate the Corporate Debtor. The CoC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore allows the above Interlocutory Application Number 888 of 2022 and passed the following:

ORDER

1. The above I.A. No. 888/2022 is allowed and the Corporate Debtor B. Y. Agro & Infra Limited is ordered to be liquidated.
   a. **Mr. Jagdish Kumar Parulkar**, having Registration No. IBBI/IPA-001/IP-P00671/2017-2018/11143, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
   b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
   c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
   d. The Liquidator appointed under section 34(1) of the Code. All 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 with the liquidator.

e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.

f. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

h. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

With the above directions, this application i.e. I.A. No. 888 of 2022 is hereby allowed and disposed of.

Sd/-

Anuradha Sanjay Bhatia
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)