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**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

IA/IBC/304/CHE/2022 in IBA/203/2020

(filed under Section 33 of the Insolvency and Bankruptcy Code, 2016)

*In the matter of **Subhashri Bio Energies Private Limited***

Mr. P. Eswaramoorthy,
Resolution Professional of
Subhashri Bio Energies Private Limited
No.44/1,Ramalinga Jothi Nagar,
Ramanathapuram,
Coimbatore,
Coimbatore – 641 045.

... Applicant /Resolution Professional

*Order Pronounced on **28th April 2022***

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : K. Jayaganga, Advocate

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

This is an application filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code 2016 (in short 'IBC, 2016') seeking relief as follows:

"That this Hon'ble Adjudicating Authority may be pleased to pass order for Liquidation of the Corporate Debtor and appoint the Applicant as the Liquidator of the Corporate Debtor and pass any such other orders as deemed fit in the circumstances of the case and thus render justice."

2. It is submitted by the Applicant that this Tribunal vide its order dated 02.09.2021 passed in IBA/203/2020 had initiated the Corporate Insolvency Resolution Process in respect of the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional.

3. Further the Ld. Counsel for the Applicant submitted that the 1st COC meeting was held on 05.10.2021 and FORM-G under relevant regulations was published by the Applicant on 19.11.2021 and the same is placed as Annexure A3 of the Application typeset.

4. Subsequent to the same, the Ld. Counsel for the Applicant submitted that, in the 3rd COC meeting held on 24.01.2022, the COC in consideration of the fact that as there was no response to the EOI and no prospective resolution Applicants, it resolved to initiate proceedings for liquidation of the Corporate Debtor. The said resolution of the COC is placed as **Annexure 4** of the Application typeset.

5. Heard the submissions of the Learned Applicant Counsel. It can be seen from the minutes of 3th COC meeting dated 24.01.2022 the COC has unanimously passed a resolution to

Liquidate the Corporate Debtor under Section 33 of the IBC, 2016 and the same is placed as Annexure 4 in this Application.

6. Apropos, it can be seen that it satisfies the mandate of 66% voting share under Section 33 (2) of the IBC, 2016. The Section 33 (2) of the IBC, 2016 is extracted hereunder:-

Section 33 (2)


"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 approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, 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)."

7. It is also seen from the records that the Applicant herein has accorded the written consent, Form AA to act as the Liquidator of the Corporate Debtor and further from the IBBI website it can be seen that the Applicant's AFA is valid upto 31.10.2022.

8. Thus, this Tribunal in view of the facts and circumstances mentioned above is constrained to *Liquidate* the Corporate Debtor under Section 33 of IBC,2016. Further **Mr. Palanigounder Eswaramoorthy** with Registration No: *IBBI/IPA-002/IP-N00284/2017-18/10842* (email: *eswarfcs@gmail.com*) is appointed as the Liquidator of the Corporate Debtor to carry out the

liquidation process subject to the following terms of the directions:-

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.



- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

9. Thus, IA/IBC/304/CHE/2022 stands **allowed** with the aforesaid directions.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)

Varshini