

NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI
BENCH, CHENNAI NATIONAL COMPANY LAW TRIBUNAL, HELD ON
09-09-2022 AT 10.35 A.M THROUGH VIDEO CONFERENCING:

PRESENT: SHRI BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)
SHRI. SAMEER KAKAR, MEMBER (TECHNICAL)

APPLICATION NUMBER : IA(IBC)/773(CHE)2022

PETITION NUMBER : CP(IB)/377/CHE/2020

NAME OF THE PETITIONER : Radhakrishnan Dharmarajan (RP) of
Nexus Electro Steel Ltd

NAME OF THE RESPONDENT(S) : --

UNDER SECTION : Sec 33(2) of IBC

Item No.403

IA(IBC)/773(CHE)/2022

in

CP(IB)/377/2020

ORDER

Counsel for the Applicant is represented by Ld. Counsel Mr. T. Ravichandran.

This is an application filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 read with Rule of the NCLT Rules, 2016 seeking relief as follows:

- a) *An order directing that the Corporate Debtor Nexus Electro Steel Limited to be liquidated as laid down under the code;*
- b) *In terms of Section 34(1) of the Code pass an order that the Applicant to act as Liquidator of the Corporate Debtor to conduct liquidation proceedings; and*
- c) *Pass such other orders which are deemed fit and necessary in the nature and circumstances of the case.*

2. It is averred in the application that CIRP in respect of Corporate Debtor was initiated on 30.03.2021 and one Mr.Mathur Sabhapathy Viswanathan was appointed as the Interim Resolution Professional (IRP) and the IRP had caused public announcement on 31.03.2021.

3. It was submitted by the Ld. Counsel for the Applicant that in the 1st meeting of the CoC held on 29.04.2021, the CoC has appointed the Applicant as Resolution Professional (RP). Since, the

Applicant appointment is sent for the confirmation of IBBI, the IRP was directed to continue with the CIRP process.

4. It was further submitted that the IRP has issued Form-G on 25.06.2021 inviting Expression of Interest (EoI) from Prospective Resolution Applicants (PRA). Since, no eligible EoI was received the CoC decided to issue 2nd Form-G dated 21.08.2021.
5. In response to 2nd Form-G, the IRP received two EoI from the PRAs. While examining their plans it was found that both were ineligible as they did not meet eligibility criteria fixed by CoC.
6. Vide order dated 01.02.2022 this Adjudicating Authority, appointed the Applicant as the RP. After the appointment, the Applicant had appointed one SPR & Co Chartered Accountants to carry out forensic audit, based on that the Applicant had filed two applications under Section 66 of IBC, 2016 before this Tribunal.
7. Meanwhile, Mr. Nand Motwani who was PRA in 1st EoI has submitted the revised Resolution plan and 3 others also submitted their plan which are discussed in the 13th to 16th meeting of the CoC and was put for voting on 16th meeting of CoC held on 25.05.2022. It was further submitted that the Resolution Plans submitted before CoC got only 21% vote in favour and the balance was not approved.
8. Subsequently, in the 17th meeting of the CoC held on 23.06.2022, the CoC offered its consent to liquidate the Corporate

Debtor and unanimously resolved and directed RP to proceed with liquidation of the Corporate Debtor, in such circumstances the Applicant moved this application and sought to liquidate the Corporate Debtor.

9. Heard the submission of the Ld. Counsel for the Applicant. On perusal of the records it is seen that in agenda item No.A.1 of the minutes of the 17th meeting of the CoC dated 23.06.2022, it was resolved as follows:

"Resolution for Voting

Resolved that the RP to file an application under Section 33(2) of the Insolvency and Bankruptcy Code as the Resolution Plan put to vote is not approved by the CoC and the CIRP period of 270 days is expiring on 25.06.2022 and thus directed the RP to file an application before the AA for Liquidation under this Section."

the voting of the CoC and Form H compliance certificate are placed on record at page 181 and 184 of the typed set filed along with the application. It is seen that the resolution was unanimously approved by the CoC.

10. Noting the above, this Adjudicating Authority is of the considered is opinion to liquidate the Corporate Debtor.

11. It is also seen from the records that the Applicant herein has accorded the written consent, Form AA to act as the Liquidator of

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the Corporate Debtor and further from the IBBI website it can be seen that the Applicant has valid AFA and no disciplinary proceedings pending against him.

12. Thus, **Mr. Radhakrishnan Dharmarajan** with Reg. No: **[IB BI/IPA-001/IP-P00508/2017-2018/10909]** (email id: **dharmar@rdhandco.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 up to date enjoined upon him.
- 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.
- k) Further in view of the discussion in the 17th meeting of the CoC, the Liquidator appointed *Supra* is directed to take steps to sell the Corporate Debtor as a Going Concern.

13. With the above directions, this IA(IBC)/773(CHE)/2022 stands **disposed of**.


SAMEER KAKAR
MEMBER (TECHNICAL)


BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

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