

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

(Video Conference)

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 10.02.2023 AT 10.30 AM

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
TCP(IB)No.76/9/AMR/2019	Main Case	9 of IBC	Global Coal Ventures Pvt Ltd Vs Empee Sugars and Chemicals Ltd
	IA(IBC)/49/2023	Sec. 33 of IBC	Mr. Pankaj Srivastava, RP of Empee Sugars and Chemicals Limited

ORDER

IA(IBC)/49/2023:

Ms.Y.Suryanarayana, Counsel for the Applicant present.
IA(IBC)/49/2023 is allowed, vide separate orders.

Sd/-
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

RSN

NCLT Amaravati Bench
IA(IBC)/49/2023
IN
TCP (IB) No.76/9/AMR/2019

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**

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IA(IBC)/49/2023
IN
TCP (IB) No.76/9/AMR/2019

**Under Section 33 of the Insolvency and Bankruptcy Code, 2016 read
with Rule 11 of the National Company Law Tribunal Rules, 2016**

**In the matter of
M/s. EMPEE SUGARS AND CHEMICALS LIMITED**

Between:

Mr. Pankaj Srivastava,
Resolution Professional of
M/s. Empee Sugars and Chemicals Limited,
No.5, 5th Cross, Navya Nagar,
Jakkur Bengaluru – 560064,
Email ID: ip.empee@gmail.com.

... Applicant/ Resolution Professional

Date of Pronouncement of Order: 09.02.2023

CORAM:

Justice Telaprolu Rajani, Member Judicial

Appearance:

For Applicant/RP: Mr.Y.Suryanaryana, Advocate along with
Ms.Devangi, PCS.

Per: Justice Telaprolu Rajani, Member Judicial

ORDER

1. This is an Application filed by the Resolution Professional under Section 33 of the Insolvency and Bankruptcy Code, 2016 (the Code) seeking to initiate the Liquidation proceedings against the CD i.e., **Empee Sugars and Chemicals Limited** and to appoint the Applicant/RP as the Liquidator.

2. The brief facts of the Application are as follows:
 - I. The NCLT, Amaravati vide order dated 24.02.2022 admitted the Petition i.e., TCP (IB) No.76/9/AMR/2019 under Section 9 of the Insolvency Bankruptcy Code, 2016 initiating Corporate Insolvency Resolution Process (CIRP) of **M/s. Empee Sugars and Chemicals Limited** and appointed Mr.Immaneni Eswara Rao, as the Interim Resolution Professional (IRP) and directed him to take charge of the Corporate Debtor and take necessary steps in furtherance of CIRP. The IRP has issued Public Announcement on 01.03.2022, inviting claims from the Creditors and the last date of receiving claims is fixed as 14.03.2022. The IRP received the claims from the creditors and hence, the IRP constituted the Committee of Creditors (COC).

 - II. The 1st CoC meeting was held on 30.03.2022, in which the CoC resolved to replace the IRP and preferred an application seeking to appoint Mr. Pankaj Srivastava as the Resolution Professional (RP). Vide order dated 10.05.2022, this Bench appointed Mr.

Pankaj Srivastava as the Resolution Professional (RP). The CoC resolved to approve Form-G. Hence, the Applicant published Form G, inviting Expression of Interest (EoI) on 14.05.2022.

- III. In response to the publication of Form G, the Applicant received EoI from 21 Prospective Resolution Applicants (PRAs). After verification of the EoIs, the Applicant provided the Request For Resolution Plan (RFRP) and the Information Memorandum (IM) to the eligible PRAs, to enable them to provide the Resolution Plan. Pursuant to the RFRP and the IM, out of 12 eligible PRAs, only two PRAs i.e., i) Twentyone Sugars Limited & ii) Jeevaka Industries Limited had submitted their Resolution Plans on 30.07.2022 & 30.08.2022 to the Applicant and the same were placed before the members of the CoC in the CoC meeting held on 02.08.2022 and 09.09.2022.
- IV. In the 11th CoC meeting held on 18.10.2022, the CoC rejected both the Resolution Plans submitted by the PRAs and also voted against the resolution for re-issue of the EoI and initiate a fresh process.
- V. In the 13th CoC meeting held on 16.12.2022, the CoC discussed about initiation of liquidation process of the CD. The CoC approved the resolution made by the Applicant, for initiation of liquidation process of the Corporate Debtor and to appoint him as Liquidator, with 98.44% voting and in the same meeting, the CoC members approved the following resolutions, that are; as

per Regulation 39b of the CIRP Regulations, 2016, in the event of the resolution of the liquidation is passed by the CoC, the CoC may make the best estimate of the amount required to meet liquidation costs, in consultation with the Resolution Professional, in the event an order for liquidation is passed. The estimated liquidation cost of 1st year is Rs.53,30,000/- plus liquidator professional fees and approved the resolution that assessment of sale of the CD as a going concern. It approved the CIRP cost incurred till date which is Rs.72,71,241/- (which includes IRP costs and running business expenses) and also approved the fees of Rs.1,00,000/- P.M to be paid to the RP from the filing of this Application till dispose of this application.

3. Hence the Applicant came up with this application and prayed to appoint him as the Liquidator.
4. From the above, it would appear that despite all possible steps as required under the Code, taken during the CIRP, the CoC did not receive any viable proposal for revival of the Company.

ORDER

5. In view of the facts stated in the Application, this Tribunal allows the Application with the following directions.
 - a) Mr. Pankaj Srivastava, (**Registration No. IBBI/IPA-001/IP-P00245/2017-2018/10474**); having office at 5, 5th Cross, Navya

Nagar, Jakkur, Bangalore, Karnataka-560064; e-mail: **psri@live.com**; Mobile: +91-8068446987 is appointed as the Liquidator. No disciplinary proceeding is pending against him as per the IBBI website.

- b) He shall issue public announcement stating that Corporate Debtor is in Liquidation.
- c) The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- d) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- e) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- f) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.

- g) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
 - h) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
 - i) 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.
 - j) Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Andhra Pradesh, the Registered Office of the Corporate Debtor; and the Liquidator.
6. With the above directions IA(IBC)/49/2023 in TCP (IB) No.76/9/AMR/2019 is disposed of. Hence this Order.

Sd/- Dated 10.02.2023

**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

Swamy Naidu