

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
**01-03-2022** AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

**IA 1223/2020 & IA (IBC) 169/2022 in  
CP(IB) No. 407/7/HDB/2019  
U/s 7 of IBC, 2016**

**IN THE MATTER OF:**

ICICI Bank Ltd

**...Financial Creditor**

Vs

MBS Impex Pvt Ltd

**...Corporate Debtor**

**CORAM:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)**

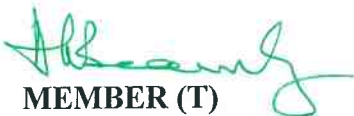
**ORDER**

Before order was to be pronounced in IA 1223/2020, Shri Rajesh Herur, Ld. Counsel representing the Suspended Management stated that the Suspended management had filed IA 169/2022 for grant of time till the 2<sup>nd</sup> week of March 2022 enabling them to settle with the Financial Creditor. Ld. Counsel submitted, pending disposal of IA 169/2022, orders in IA No. 1223/2020 to be deferred.

We have perused the Affidavit. During hearing of this IA on 09.02.2021, Shri Diljeeth Ahluwalia, Ld. Counsel representing CD had made a submission before this Tribunal that the CD would settle the matter with a the Financial Creditor within two weeks and by making 100% payment, without insisting for any haircut. Thus submitting, sought the indulgence of the Tribunal in halting the pronouncement of the orders.

More than a year has lapsed, the undertaking has not been complied. On the contrary, a similar application in IA 169/2022 has been filed. We therefore, find no reason to entertain this IA 169/2022. We accordingly dispose IA No. **169/2022**.

Orders in **IA 1233/2020** pronounced. IA is allowed vide separate sheets. The CD is put into liquidation as per the terms mentioned in the order.

  
**MEMBER (T)**

  
**MEMBER (J)**

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH-1**

**IA No. 1233 of 2020**

In

CP (IB) No. 407/07/HDB/2019

**In the matter of Liquidation of M/s MBS Impex Private Limited**

Application under Section 33 (2) of I & B Code, 2016

**Santosh Bhatia**

Resolution Professional

M/s MBS Impex Private Limited

5-9-45, Basheerbagh

Hyderabad – 600063

...Applicant

**Date of order: 01.03.2022**

**Coram:**

Dr N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)  
Shri Veera Brahma Rao Arekapudi, Member (Technical)

**Appearance (via videoconference)**

For Applicant: Ms. J.V.L. Bharati, Advocate

**PER: BENCH**

1. This is an Application filed by the Resolution Professional under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as CODE) seeking orders for



liquidation of **M/s MBS Impex Private Limited/** Corporate Debtor.

2. This Tribunal vide order dated 13.11.2019 admitted the petition bearing CP (IB) No. 407/07/HDB/2019 under Section 7 of the Code, ordering initiation of Corporate Insolvency Resolution Process (CIRP) of the Company and appointed Mr. Sridhar Venkatraya Sundararaja as Interim Resolution Professional who was later replaced by the Applicant herein as Resolution Professional. It is stated that there was no co-operation from the side of Directors (Suspended Board) of the Corporate Debtor. Owing to covid induced lockdown considerable time was lost in CIRP. This Tribunal vide order passed in IA No. 1041 of 2020 on 26.11.2020 had granted 20 days' time to convene CoC meeting to deliberate on either to seek extension of CIRP period or to liquidate the Company. The CoC through e-voting held on 07.12.2020 and 08.12.2020 voted in favour of liquidation of the Company by 100% votes and resolved to seek liquidation of the Corporate Debtor and resolved to appoint the Applicant herein, as Liquidator of the Corporate Debtor.
3. We have heard the Applicant and perused the record. The record reveals that the IA was earlier heard by a different Bench and reserved for orders. When this IA was listed for passing orders on 09.02.2021, Shri Dil Jeeth Ahluwalia, Learned Senior Counsel representing Corporate Debtor appeared and submitted



that the Corporate Debtor is keen to settle the matter with the Financial Creditor and sought two weeks' time. This Tribunal, at the request of the Learned Senior Counsel granted two weeks' time and directed to report compliance. Despite directions, none turned up for the Corporate Debtor. The matter was listed and heard by the present Bench on 25.02.2022 and again reserved for passing orders today.

4. Even according to the Applicant, no resolution plan has received the approval by the COC within the timeline prescribed under the Code. Further, it is evident from the CoC minutes that no concrete proposal was before the CoC to even to have hope of resolution even by the time of seeking extension of another 20 days by the petitioner.
15. We are fully conscious of the fact that the primary object of IBC is resolution and liquidation is the last resort. At the same time keeping the timelines prescribed under the IBC is paramount, lest asset value gets deteriorated. Therefore, taking into consideration the provisions of law as well as the documents on record, this Adjudicating Authority is of the view that since the efforts to obtain resolution of the Corporate Debtor have failed and the only option left, under the circumstances being early liquidation process, we allow this petition, directing the liquidation of the Corporate Debtor.



16. Before we part with, we would like to refer to the ruling of Hon'ble Supreme Court in Innoventive Industries Limited Vs ICICI Bank & Anr in Civil Appeal No. 8337-8338 of 2017, wherein it has been held as follows :-

*“From the viewpoint of creditors, good realization can generally be obtained if the firm is sold as a going concern. Hence, when delays induce liquidation, there is value destruction. Further, even in liquidation, the realization is lower when there are delays. Hence, delays cause value destructions. Thus, achieving a high recovery rate is primarily about identifying and combating the sources of delay”*

17. We therefore hope that the Liquidator whom we have appointed would sincerely endeavour to sell the Corporate Debtor as a going concern without delay however, by observing the relevant provisions contained in IBC as well as in IBBI (Liquidation Process) Regulations and thus ensure that one of the objects of the IBC viz. maximization of the assets of the Corporate Debtor is not diluted.

**ORDER**

6. The Application is accordingly allowed with the following directions:-
- (a) The Corporate Debtor i.e M/s MBS Impex Private Limited shall be liquidated in the manner laid down in Chapter-III of the Code.



- (b) The Applicant Mr. Santosh Bhatia, presently RP of M/s MBS Impex Private Limited is appointed as Liquidator.
- (c) He shall issue public announcement stating that the Corporate Debtor is in liquidation.
- (d) The Moratorium declared under Section 14 of the code shall cease to operate here from.
- (e) Subject to Section 52 of the Code, 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.
- (f) 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.
- (g) 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 & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (h) Personnel connected with the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as would be required for managing its affairs.
- (i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.



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- (j) 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.
- (k) Copy of the order shall be furnished to IBBI, to the Regional Director, Ministry of Corporate Affairs, Registrar of Companies & Official Liquidator, Hyderabad, the Registered Office of the Corporate Debtor and the Liquidator.

(VEERA BRAHMA RAO AREKAPUDI)  
MEMBER (TECHNICAL)

(DR N.V. RAMAKRISHNA BADARINATH)  
MEMBER (JUDICIAL)

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