

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, CHENNAI**

MA/918/2019 in IBA/ 308/ IB/
2019 filed under Sections 33
(1)(a) of the Insolvency and
Bankruptcy Code, 2016

In the matter of *M/s. Quantum Coal Energy Private Limited*

Mr. Gopalsamy Ganesh Babu
Resolution Professional

... Applicant

Order delivered on 17th of September, 2019

CORAM

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

Resolution Professional

: Mr. G.Ganesh Babu, in person

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (J):

1. This relates to MA/918/2019 filed in IBA/308/2019 by the Resolution Professional viz., Mr. Gopalsamy Ganesh Babu, under Section 33 (1) (a) of the Insolvency and Bankruptcy Code, 2016, (in short 'I&B Code, 2016').



2. The prayers made by the Resolution Professional are to liquidate the Corporate Debtor viz., *M/s. Quantum Coal Energy Private Limited* (hereinafter referred to as “**Corporate Debtor**”) and to appoint the Applicant as Liquidator.

3. Originally, the Operational Creditor viz., *M/s. ENP Impex Private Limited* filed IBA/308/IB/2019 under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, to declare moratorium and to appoint Interim Resolution Professional (IRP). This Authority vide Order dated 15.07.2019, admitted the Application, initiated the CIR Process against the Corporate Debtor, declared moratorium and appointed the Applicant as the IRP.

4. It is averred that pursuant to the Order of this Authority dated 15.07.2019 the IRP had taken over the management of the Corporate Debtor and issued the

Newspaper Publication dated 20.07.2019 in two edition one in English and another in vernacular as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors. After verification of the claims received, the IRP constituted the Committee of Creditors (CoC). In the 1st CoC Meeting held on 13.08.2019, the Applicant viz., Mr. Gopalsamy Ganesh Babu was appointed as Resolution Professional.

5. The Resolution Professional states that as per the financial record, the Corporate Debtor is doing trading business. The Resolution Professional further states that an excess amount of Rs.20,65,083/- was drawn on the bank account of Corporate Debtor and paid to one Penta Coal Pvt. Ltd., during the CIRP without the approval of the Applicant. The CEO of the Corporate Debtor, who is also Director of the Penta Coal, has been instructed by the Applicant to remit back the

amount to the Corporate Debtor's account, but Director of Penta Coal Pvt. Ltd., refused to do so.

6. It is averred that the books of accounts were not available in the registered office and the Directors/CEO of the Corporate Debtor were instructed to hand over the same by 08.08.2019, but they failed to do so till date.

7. It is averred that the Sundry Debtors' list submitted by the Corporate Debtor reflects that an amount of Rs. 6,37,27,273/- is outstanding from Global Traders in which the Directors of the Corporate Debtor are the partners.

8. It is further averred that as there was no response in furnishing the books of accounts of Corporate Debtor, the Resolution Professional visited their registered office on 17.08.2019 and has taken copy of accountant's computer hard disk. It is stated that as the Corporate Debtor is doing only trading business, there is no possibility of making the Corporate Debtor

as a “going concern”. Therefore, CoC has decided to go for Liquidation of the Corporate Debtor to safeguard the interests of the stakeholders of the Company.

9. The CoC vide its Meeting held on 13.08.2019, has decided to Liquidate the Corporate Debtor. The Resolution passed is as follows:

“As the CD is doing only Trading business and there is no possibility of making the CD as going concern, it is resolved to Liquidate the CD company rather going for Resolution which is approve.”

10. Since, no Resolution Plan has been received by this Authority under Sub-section (6) of Section 30 of the I&B Code, 2016, the Corporate Debtor has to be ordered for Liquidation.

ORDER

11. In view of the facts and circumstances recorded by the Resolution Professional in MA/918/2019 in

IBA/308/IB/2019 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass the Liquidation Order as follows:-

I This Authority orders for liquidation of the Corporate Debtor viz., *M/s. Quantum Coal Energy Private Limited.*

II This Authority appoints the Resolution Professional viz., *Mr. Gopalsamy Ganesh Babu* as Company Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;



IV. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

V. This Authority makes it clear that para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

VI. 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.



VII. All the 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 Company Liquidator viz., *Mr. Gopalsamy Ganesh Babu*.

VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX The Company Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.



X. Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, and Registered Office of the Corporate Debtor by the Company Liquidator viz., Mr. Gopalsamy Ganesh Babu for information and compliance.

12. In terms of the above, MA/918/2019 filed in IBA/308/IB/2019 by the Resolution Professional under Section 33 (2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., *M/s. Quantum Coal Energy Private Limited.*, stands **disposed of**.

13. The Registry is directed to send a copy of this Order to the Company Liquidator with immediate effect for information and compliance. The Liquidator is further directed to file appropriate Applications challenging the transaction which have taken place in violation of the moratorium and for recovery of the outstanding.



14. Order is pronounced in open Court.

-Sd-

(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

P.ATHISTAMANI