

IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD

IA No.116/2019  
In  
CP(IB)No.128/10/HDB/2017

Between:

M/s. NEETA CHEMICALS (INDA) PVT. LTD.

Having its registered office at:

H.No.1-2-234/13/53, to 56,

Reliance Residency Flat No.106 & 107,

Indira Park Road, Domalguda,

Hyderabad – 500 029.

(Rep. by Mr. Gaurav Ashok Adukia, Resolution Professional)

...Applicant

And

STATE BANK OF INDIA

Having its office at

State Bank of India Stressed Assets Management Branch – II

D.No.3-4-1013/A, 1<sup>st</sup> Floor, CAC,

TSRTC Bus Station, Kachiguda,

Hyderabad – 500027, Telangana.

...Financial Creditor

Order pronounced on: 28.06.2019

Parties/ Counsels Present:-

For the Resolution Professional:

Dr. S.V. Rama Krishna, Advocate

For the Financial Creditor (SBI):

Ms. Durga Bose, Advocate.

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PER: K.ANANTHA PADMANABHA SWAMY,  
MEMBER JUDICIAL

ORDER

1. The present Application bearing IA No.116/2019 in CP(IB)No.128/10/HDB/2017 is filed by Resolution Professional of Applicant Company i.e., Neeta Chemicals (India) Pvt. Ltd. U/s.33 of the IB Code, 2016 inter-alia praying to:-
  - i. Allow the present Company Application filed u/s 33(2) of IBC, 2016 for liquidation of the Corporate Debtor, namely, Neeta Chemicals (India) Pvt. Ltd;
  - ii. Appoint Dr.K.V.Srinivas, having registration No.IBBI/IPA-001/IP-P00520/201-18/10945 as Liquidator of the Corporate Debtor in terms of the provisions of IBC, 2016 and Rules made thereunder; and
  - iii. Pass such order or other orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice.
2. It is stated that in the C.P.(IB)No.128/10/HDB/2017 filed by Corporate Debtor themselves u/s 10 of the Insolvency and Bankruptcy Code (IBC) to initiate the Corporate Insolvency Resolution Process against the Company, Hon'ble NCLT admitted the same vide its Orders dated 14<sup>th</sup> May, 2018.
3. It is stated that Hon'ble NCLT, Hyderabad vide its Order dated 27<sup>th</sup> July, 2018 confirmed the appointment of Mr. Gaurav Ashok Adukia having Reg. No. IBBI/IPA-002/IP-N00457/2017-2018/11293 as Resolution Professional.

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4. The IRP has issued Public Announcement in newspaper i.e., Times of India, Hyderabad on 18.05.2018 and in Andhra Bhoomi, Hyderabad Edition (Telugu Newspaper) dated 18.05.2018. A CoC was constituted on 01<sup>st</sup> June, 2018 by the Interim Resolution Professional (IRP).
5. The 1<sup>st</sup> meeting of CoC was held on 12<sup>th</sup> June 2018 and thereafter the Committee met four times on 10<sup>th</sup> August 2018, on 12<sup>th</sup> October, 2018, on 16<sup>th</sup> January, 2019 and 28<sup>th</sup> January, 2019.
6. It is stated that the Resolution Professional has submitted three Progress Reports dated 01.09.2018, 01.10.2018 and 30.01.2019 to the Hon'ble Tribunal.
7. It is stated that the Resolution Professional also filed an Application u/s.12(2) of IBC, 2016 seeking extension of CIRP period by 90 days as 180 days ended on 10<sup>th</sup> November, 2018 and this Hon'ble Tribunal was pleased to extend the CIRP period by 90 days ending on 8<sup>th</sup> February, 2019 vide its order dated 8<sup>th</sup> November, 2018.
8. It is stated that the Resolution Professional issued newspaper advertisements seeking Expression of Interest to submit Resolution Plan for the Corporate Debtor i.e., Neeta Chemicals (India) Pvt. Ltd., on 14<sup>th</sup> August, 2018 in One English Language Newspaper namely Financial Express and one Regional Language Newspaper namely Surya where by the last date for submission of Expression

of Interest was August 27, 2018. Further the Resolution Professional with the approval of Committee of creditors extended the last date for submission of Expression of Interest to September 22, 2018 and accordingly, published modification in Expression of Interest on 2<sup>nd</sup> September 2018 in English Language Newspaper namely Financial Express and Regional Language newspaper namely Surya and issued Fresh advertisement inviting Expression of Interest in the Hindu, English Language newspaper and Eenadu, Regional language newspaper on 2<sup>nd</sup> September, 2018.

9. It is stated that pursuant to the issue of the Expression of Interest as stated above, only one prospective Resolution Applicant, namely, "Vaishnavi Chemicals", a Partnership Firm, on 24<sup>th</sup> August, 2018 expressed their interest to provide Resolution Plan. The Resolution Professional issued on 26<sup>th</sup> October, 2018 the Invitation for submission of Resolution Plan and the Evaluation matrix post approval of the same by the members of the Committee of Creditors to the said prospective resolution applicant. The last date for submission of Resolution Plan according to the Invitation for submission of Resolution Plan was fixed as 27<sup>th</sup> November, 2018.
10. It is stated that the Prospective Resolution Applicant vide email dated 26<sup>th</sup> November, 2018 requested for grant of

extension of last date for submission of Resolution Plan by a period of 4 weeks and accordingly considering the same the last date for submission of Resolution Plan was extended to 18<sup>th</sup> December, 2018 on confirmation of the same by the member of the Committee of Creditor.

11. It is stated that the prospective Resolution Applicant, further, vide email dated 15<sup>th</sup> December, 2018, requested to grant further extension of time for submission of Resolution Plan due to sudden demise of a family member of prospective resolution applicant and accordingly the last date for submission of Resolution Plan was extended to 7<sup>th</sup> January, 2019 on verbal confirmation received from the sole member of the CoC. The Resolution Plan from M/s Vaishnavi Chemicals was received on 7<sup>th</sup> January, 2019 and the same was taken on record by the Members of the CoC at its meeting held on 16<sup>th</sup> January, 2019.
12. It is stated that on examination of the Resolution Plan, in the light of its compliance/non-compliance with the IBC, 2016 and applicable Regulations thereunder, the Resolution Plan was found to be non-compliant and the observations of the Resolution Professional in this regard were communicated vide email dated 11<sup>th</sup> January, 2019 to the Resolution Applicant.
13. That the Resolution Professional further requested the Resolution applicant to submit the modified Resolution Plan

in compliance with the Code and Regulations and other applicable laws latest by 22<sup>nd</sup> January, 2019 as the last date for the Corporate Insolvency Resolution Process is 8<sup>th</sup> of February 2019 i.e., 270<sup>th</sup> day as stated above. The Resolution Professional till 28<sup>th</sup> January 2019, had not received any revised Resolution Plan to be considered as 'duly compliant with the law as stated above' and same was intimated to the Members of the Committee of Creditors at its Fifth Meeting held on 28<sup>th</sup> January 2019.

14. That in view of the aforesaid position, the Coc (with 100% voting share) at their meeting held on 28<sup>th</sup> January 2019 passed the resolution for liquidation of the Corporate Debtor. It is sated that the existing Resolution Professional submitted a letter dated 28<sup>th</sup> January, 2019 expressing his inability to act as Liquidator of the Corporate Debtor.
15. It is further stated that in view of the above, the Members of CoC proposed the appointment of Mr. Kondapalli Venkata Srinivas, Insolvency Professional having Regn. No. IBBI/IPA-001/IP-P00520/2017-18/10945 as the Liquidator of the Corporate Debtor, Neeta Chemicals (India) Private Limited.

**The extract of the Resolutions of CoC passed at their meeting on 28.01.2019 for liquidation are as under:**


***“RESOLVED THAT** pursuant to Section 33, sub section (2) of Insolvency and Bankruptcy Code, 2016 and other applicable provisions of Insolvency and Bankruptcy Code, and in accordance with Regulation 31 and Regulation 34 of Insolvency and Bankruptcy Board of*

*India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other applicable provisions of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, if any, and in accordance with rules and regulations made thereunder the Committee of Creditors hereby recommend that Neeta Chemicals (India) Private Limited, Corporate Debtor under Corporate Insolvency Resolution Process be liquidated.”*

**“RESOLVED FURTHER THAT** *the Committee hereby proposed to appoint Mr. Kondapalli Venkata Srinivas, Insolvency Professional bearing Registration No. IBBI/IPA-001/IP-P00520/2017-18/10945 as the liquidator of the Neeta Chemicals (India) Private Limited subject to approval of Adjudicating Authority.”*

16. It is stated that, subsequent to the above meeting of CoC, the Resolution Applicant submitted a modified Resolution Plan through email dated 05<sup>th</sup> February 2019 and also hard copy. However, on preliminary examination of the Resolution Plan by the Resolution Professional, the said modified Resolution Plan was not in compliance with the Code and Regulations made thereunder and there were number of inconsistencies and most of the material were copied from the previous Resolution Plan and the same was intimated to the Committee of Creditors. The matter was informed through email dated 7<sup>th</sup> February, 2019. To sum up as there was no Resolution Plan acceptable to the CoC and the CoC already took a decision to recommend the Corporate Debtor for liquidation.

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17. It is stated that the present Application is bona fide one and the present application is filed u/s 33(2) of IBC 2016 r/w Rule 11 of NCLT Rules, 2016 seeking order for liquidation of the Corporate Debtor. Further, no prejudice shall be caused to the parties herein, if the prayer sought in the present Application is allowed.
18. Heard and perused the records.
19. In view of the facts and circumstances recorded by RP in IA No. 116 of 2019 filed in CP(IB) No. 128/10/HDB/2017, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30. Therefore, in exercise of powers conferred under Sub-Clauses (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, I proceed to pass Order as follows:—
- (i) I hereby order for Liquidation of M/s. Neeta Chemicals (India) Pvt. Ltd., which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
  - (ii) This Adjudicating Authority hereby Appoint Mr. Kondapalli Venkata Srinivas, who has given his consent letter to act as Liquidator in the Present Case 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;
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- (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) I make 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 in the Company Liquidator viz., Mr. Kondapalli Venkata Srinivas in addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (viii) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company 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 fee for the conduct of the Liquidation proceedings in such a proportion to the value of the Liquidation estate assets as may be specified by the Board. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation estate.
- (x) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. Kondapalli Venkata Srinivas for information and compliance.
- (xi) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.
- (xii) In terms of the above, IA No. 116 of 2019 filed in CP(IB) No. 128/10/HDB/2017 by the RP under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Neeta Chemicals (India) Pvt. Ltd., stands disposed off.

  
K. ANANTHA PADMANABHA SWAMY  
MEMBER JUDICIAL