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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (URGENT HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 25.11.2020 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 03, 1095 & 1096/2020 in CP (IB) No. 277/9/HDB/2019
NAME OF THE COMPANY	Om Shakti Renergies Ltd
NAME OF THE PETITIONER(S)	Isgec Covema Ltd
NAME OF THE RESPONDENT(S)	Om Shakti Renergies Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

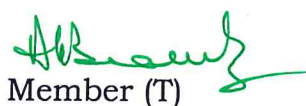
Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Counsel for Applicants in IA 1095 & 1096 of 2020 is connected through video. Counsel for Resolution Professional is also connected. For hearing submissions, post the matter on 17.12.2020.

Order passed in IA 03/2020 vide separate orders.


Member (T)

Binnu


Member (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

**IA No.03 OF 2020
IN
C.P. (IB) No.277/9/ HDB/ 2019**

APPLICATION UNDER SECTIONS 33 AND 34 OF
THE INSOLVENCY AND BANKRUPTCY CODE,
2016.

In the Matter of

M/s Om Shakti Renergies Limited
Having its Registered Office at
H. No.8-2-293/ 52/ DKN/2, Road No.51
Jubilee Hills, Hyderabad TG 500033.

[Through its Resolution Professional
Mr.Chillale Rajesh]

**.. Applicant/
Corporate Debtor**

AND

M/s ISGEC Covema Limited
Having its registered office at D-860
New Friends Colony, New Delhi – 110065
And also at A-4, Sector 24 NOIDA
Uttar Pradesh 201301.

**.. Respondent/
Operational Creditor**

Date of order : 25.11.2020

Coram:

**HON'BLE SHRI K. ANANTHA PADMANABHA SWAMY,
MEMBER (JUDICIAL)**

AND

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI,
MEMBER (TECHNICAL)**

Parties / Counsels Present:

For the petitioner : Shri VVSN Raju, Advocate

**Per: SHRI VEERA BRAHMA RAO AREKAPUDI,
MEMBER (TECHNICAL)**

Heard on: 04.03.2020, 18.09.2020, 24.09.2020, 26.10.2020 and
12.11.2020.

ORDER

The present Application bearing IA No.3 of 2020 in CP (IB) No.277/9/ HDB/ 2019 is filed by Resolution Professional under sections 33 and 34 of the IB Code, 2016, *inter-alia*, praying to pass an order of liquidation against the Corporate Debtor herein and to appoint the Proposed Liquidator as Liquidator.

2. It is stated that vide order dated 16.09.2019 (ANNEXURE -I) passed in CP (IB) No.277/9/ HDB/ 2019 the Tribunal has admitted the petition, allowing the Corporate Debtor to Corporate Insolvency Resolution Process (CIRP), appointed Shri Chillale Rajesh as Interim Resolution Professional (IRP). Said IRP has later been appointed as Resolution Professional by the CoC in its First Meeting dated 15.10.2019 (ANNEXURE-II). The Resolution Professional had issued public announcement for initiation of CIRP vide publication in Business Line and Nava Telangana on 20.09.2019 (ANNEXURE-IV). However, one Shri Shri G. Shivramkrishna has **filed an appeal** before the Hon'ble National Company Law Appellate Tribunal against the above order of admission dated 16.09.2019. The Hon'ble Appellate Tribunal has been pleased to dismiss the said appeal being Company Appal (AT) (Insolvency) No.1109 of 2019 vide judgment dated 07.02.2020. A copy of the said judgment is produced by the Resolution Professional vide Memo dated 12.02.2020.

3. Pursuant to the directions issued by this Tribunal vide order dated 10.01.2020, the Resolution Professional has filed Memo dated 17.01.2020, enclosing therewith liquidation value and Valuation Reports of the Corporate Debtor. The same are taken on record.

4. The IRP has constituted the CoC as under:





Sl. No.	No of the Financial Creditor	Voting Percentage
1.	Power Finance Corporation Limited.	100%

5. It is stated that Second CoC meeting was held on 22.11.2019 (ANNEXURE-III), wherein Techno Economic Viability Report dated 31.10.2019 (ANNEXURE-V) on the Corporate Debtor was discussed and the Resolution Professional was directed to file an application for liquidation. Hence the present application. The Resolution Professional, in compliance with section 34(1) of the Code has given written consent vide communication dated 18.12.2019 (ANNEXURE-VI).

6. It is stated that Second CoC Meeting has taken cognisance of Due Diligence Report submitted by Shri V. Udaykumar, SBI empanelled advocate. The Resolution Professional has also prepared Information Memorandum and circulated it on 04.11.2019 to the Members of CoC. The Committee of Creditors, in its Second Meeting dated 22.11.2019 (ANNEXURE-V), had discussed the Techno Economic Viability Report. Some of the findings of the Report are as under:

“Corporate Debtor entered into PPA with APTRANCO on 24.01.2001 for validity of 20 years; the balance period is left out is only 4 years and fixed tariff for left out period of 4 years are Rs.1.56, Rs.1.64, Rs.1.71, Rs.1.8 and Rs.1.89 per unit respectively. The variable cost for the left over period is 4.81 per unit, whereas Corporate Debtor tariff is for the balance period is Rs.6.45, Rs.6.52, Rs.6.61 and 6.7 per unit and existing tariff will not support to run the Corporate Debtor plant.”

7. It is stated that the CoC has preferred liquidation of the Corporate Debtor having regard to Techno Economic Viability Report, which states that it is practically difficult to find purchasers for the entire plant equipment and the boiler and turbines will not support process plants and other plants and that no new biomass plants are set up in India or nearby states and dismantling cost and transportation cost to any purchaser abroad may not give the best price as only 50% of the equipment may be useful for them. The Techno Economic Viability Report further states that the plant can be sold at salvage value (scrap value) for the purpose of quick recovery of debt.

8. Heard both sides and perused the records.

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9. In view of the facts and circumstances recorded by Resolution Professional in IA No.3 of 2020 filed in CP(IB) No.277/9/ HDB/ 2019, 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, the Tribunal proceeds to pass the following order :

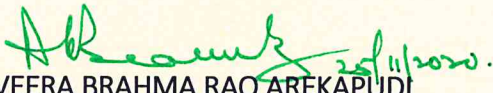
- (i) This Adjudicating Authority hereby orders for liquidation of M/s Om Shakti Renergies, the Corporate Debtor herein, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- (ii) This Adjudicating Authority hereby appoints Shri Chillale Rajesh as Liquidator. He has given his consent letter dated 18.12.2019 (ANNEXURE-V) to act as Liquidator in the present case. He 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) It is made clear that clause (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., Shri Chillale Rajesh.
- (viii) In addition to this, the Company Liquidator shall exercise powers and duties as enumerated in Sections 35 to 50, 52 to 54

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of the I&B Code, 2016, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- (ix) The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- (x) The Liquidator shall keep in view the provisions of Regulation 32A of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the assets of the Corporate Debtor under clauses (a) to (d) of Regulation 32 of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016.
- (xi) The Company Liquidator shall be entitled to charge such fee for conducting the liquidation proceedings in such a proportion to the value of the Liquidation estate assets as specified by the Board under Regulation 4(3) of IBBI (Liquidation Process) Regulations, 2016. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation estate.
- (xii) Copy of this Order shall be sent to the concerned Registrar of Companies, Regional Director, Official Liquidator, Registered Office of the Corporate Debtor and Company Liquidator viz., Shri Chillale Rajesh for information and compliance.
- (xiii) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.
- (xiv) In terms of the above, IA No.3 of 2020 filed in CP(IB) No. 277/9/HDB/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 Om Shakti Renergies Limited stands **disposed of**.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)