

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

I.A. 817 OF 2020

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Laxman Digambar Pawar

Resolution Professional of:

M/s Hitech Electromech Private Limited

...Applicant

In the matter of

C.P. No. 2979 of 2019

Swaroop Engineers

...Operational Creditor

Versus

Hitech Electromech Private Limited

Order delivered on: 17.03.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance:

For the Resolution Professional: Adv. Raina Birla

Per: Shri Shyam Babu Gautam, Member

ORDER

1. It is an application filed by Resolution Professional, Mr. Laxman Digambar Pawar seeking liquidation of M/s Hitech Electromech Pvt. Ltd. (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34 (1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

- a. Consider and allow the instant IA 817 of 2020 for initiating liquidation of Corporate Debtor under Section 33(1)(a) and 34(1) of IBC, 2016 as there are no realizable assets;*
- b. Pass such further and/or other order(s) and/or direction(s) as the facts and circumstances of the matter may warrant; for which act of kindness, the applicant shall, as in duty bound, for every pray.*

2. The counsel for the Applicant submitted that this Tribunal vide an order dated 17.10.2019 in Company Petition No. 2979 of 2019 admitted the petition under Section 9 of the Code, filed by Swaroop Engineers (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Hitech Electromech Private Limited, (hereinafter called as the “Corporate Debtor”). The applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order. Upon his appointment as the IRP, the applicant published a public announcement of CIRP in Form A dated 10.11.2019 in two newspapers inviting claims from all the creditors of the Corporate Debtor. The Committee of Creditors (CoC) was formed and the 1st meeting was held on 22.11.2019 wherein the CoC approved resolution allowing Insolvency Resolution Professional (IRP) to continue as Resolution Professional (RP).

3. During the 2nd meeting of the CoC which was held on 27.02.2020, the CoC decided to liquidate the company as the unit is not in operation since long and there are no workers and employees. No Expression of Interest received from prospective resolution applicant, the Committee of Creditors approved the initiation of liquidation of the corporate debtor by passing the resolution and directed the Resolution Professional to file miscellaneous application and seek the further direction and order under section 33(1)(a) and 34(1) of the code from this Tribunal by passing the following resolution with voting share of 100% of physically present;

“RESOLVED THAT, the Committee of Creditors, at their Second meeting held on 27.02.2020, approved the initiation of liquidation of the Corporate Debtor and hence Resolution Professional is hereby directed to file miscellaneous application and seek the further direction and order under Section 33(1)(a) and 34(1) of the code from the Hon’ble NCLTT, Mumbai”

“Further resolved that Resolution Professional Mr. Laxman Digambar Pawar Reg. No. IBBI/IPA-003/IPN00015/2017-

2018/10104 be appointed as liquidator and his fees will be prescribed under IBC, 2016 as per regulation 4(3) of IBBI (Liquidation Process) Regulation, 2016.”

ORDER

We have heard the Applicant and perused all the documents submitted by them. It is observed from the minutes of the 2nd CoC meeting that the CoC has, with 100% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Interlocutory Application Number 817 of 2020 with the following observations and directions:

- a. **Mr. Laxman Digambar Pawar**, having Registration No. IBBI/IPA-003/IP-N000015/2017-2018/10104 and having office at: 15 & 16 Bhakti Complex, 1st Floor, Behind Dr. Ambedkar Statue, Pimpri, Pune – 411 018, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. The Liquidator appointed under section 34(1) of the Code. Will have all 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 liquidator.

- e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- f. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- g. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- i. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

With the above directions, this application i.e. I.A. No. 817 of 2020 is hereby allowed and disposed of.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)