

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

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
13-07-2023 AT 10:30 AM

**Cont. A (IBC) 5/2022, IA (IBC) 1356 & 1430/2022, IA (IBC) 109/2023 in
Company Petition IB/14/2021**
u/s. 9 of IBC, 2016

IN THE MATTER OF:

Padmavathi Steel Traders

...Operational Creditor

VS

Mark Infrastructure Pvt Ltd

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

O R D E R

IA 1430/2022

This application is for seeking replacement of the Resolution Professional as liquidator on the ground that the CoC has resolved not to continue the Resolution Professional as liquidator. Heard. Perused the Minutes of the 10th COC Meeting. Since COC with 76.14% approved to appoint Mr. Madasa Kumar as Liquidator, we allow the Application. Mr. Madasa Kumar, Insolvency Professional is appointed as Liquidator. The IA is accordingly allowed and disposed of.

IA 1356/2022

This is an application for an order of liquidation against the Corporate Debtor. Counsels for the Petitioner and Respondent present. Though the Resolution Plans have been received and placed before the CoC and CoC has rejected the same. As on date, there is no Resolution Plan pending before the CoC, CIRP period of 210 days completed on 26.09.2022 and the COC in its 10th Meeting resolved to liquidate the CD. Under the circumstances, this application is filed for passing an order of liquidation.

Even according to the Applicant, no resolution plan has received the approval by the COC within the timeline prescribed under the Code and despite completion of 210 days of CIRP.

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

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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.

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”

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.

In the light of the provisions, we are satisfied that there is no alternate but to allow this application in the manner laid down in Chapter-III of the Code and hence this application is allowed and liquidation process is ordered against the Corporate Debtor to be carried out by the liquidator as per the Section 33 of the Code, as expeditiously as possible.

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- (a) The Corporate Debtor i.e M/s Mark Infrastructure Private Limited shall be liquidated in the manner laid down in Chapter-III of the Code.
- (b) The Applicant Mr. Madasa Kumar with IP Regn No. IBBI/IPA-001/IP-P01590/2019-20/12465 is hereby 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.

IA 109/2023

At request of the Ld. Counsel for the Applicant on the ground that the Ld. Counsel Mr. Y. Suryanarayana is not presently available, though Respondents are ready, Matter adjourned to 10.08.2023.

Cont. A 5/2022

At request of the Ld. Counsel for the Applicant on the ground that the Ld. Counsel Mr. Y. Suryanarayana is not presently available, though Respondents are ready, Matter adjourned to 10.08.2023.

SD/-
MEMBER (T)

SD/-
MEMBER (J)

Vamshi/Binnu