



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/11/60(5)/GB/2023
in IA (IBC)/41/GB/2022
in CP (IB)/4/GB/2021**

Coram:

**Hon'ble Shri Deep Chandra Joshi, Member (J): Hearing through
Hon'ble Shri Prasanta Kumar Mohanty, Member (T): Video Conference**

**ATTENDANCE-CUM-ORDER SHEET OF HEARING OF THE NATIONAL
COMPANY LAW TRIBUNAL, GUWAHATI BENCH ON 03.03.2023**

In the matter of:

NK Power and Infrastructure Pvt. Ltd.
In
(Purshotam Gaggar, RP
Vs
Nanda Rangsa Marak and 3 others)

Section: Under Section 60(5) of the IBC, 2016

<u>S.No.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	MR. NIRMAL GOENKA	Advocate	Applicant/SRA	Present in Video Conference

ORDER

The Parties are represented through respective Learned Counsel(s).

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, through Video Conferencing vide separate sheet.

Sd/-

**(Prasanta Kumar Mohanty)
Member (Technical)
& Adjudicating Authority**

Sd/-

**(Deep Chandra Joshi)
Member (Judicial)
& Adjudicating Authority**



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In
(Purshotam Gaggar, RP
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Nanda Rangsa Marak and 3 others)

Order Delivered on 03.03.2023

ORDER

Per: Shri Prasanta Kumar Mohanty, Hon'ble Member (T)

1. This Application has been filed under Section 60(5) of IBC, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 on behalf of NK Power and Infrastructure Private Limited/Successful Resolution Applicant of the Corporate Debtor-Navya Agro Product Private Limited, seeking the following reliefs:

- a. Pass an order permitting the name of the Applicant i.e. the Successful Resolution Applicant to be substituted in place of the Resolution Professional in I.A. 41 of 2022 and the said I.A. 41 of 2022 be amended accordingly;
- b. Pass such further and other orders and directions as the nature and circumstances of the case may require and as this Tribunal may deem fit and proper.

2. Brief Summary of the facts as stated by the Applicant are as follows:



- 2.1 An application for initiation of CIRP of Navya Agro Products Private Limited- Corporate Debtor/CD came to be allowed by this Tribunal wherein one Mr. Purshotam Gaggar came to be appointed as the Resolution Professional.
- 2.2 The Resolution Professional of the CD filed the present application bearing I.A. 41 of 2022 before this Hon'ble Tribunal under Section 66 of the Insolvency and Bankruptcy Code, 2016. This Hon'ble Tribunal was pleased to issue notice in the said application.
- 2.3 In the meantime, the Applicant herein submitted a resolution plan for the Corporate Debtor in pursuance of the Form G published by the Resolution Professional. The plan so submitted by the Applicant herein came to be approved by the Committee of Creditors of the Corporate Debtor by 100% vote and subsequently by this Hon'ble Tribunal vide an order dated 12th August 2022, in I.A. No. 43 of 2022. The relevant portion of the order dated 12th August 2022 is as follows:

“13. Transaction relating to Sec. 66- IA 41 of 2022 has been filed by RP under sec 66 of IBC and is still pending before us. With regards to this IA, it has been discussed and agreed in the 10th CoC meeting and as well as before this bench that if the said IA 41 of 2022 is not disposed of before the approval of the Resolution Plan, the Successful Resolution Applicant have to pursue the said matter after the plan is approved. In case of any recovery out of the said proceedings, the same shall be passed on to the creditors of the Corporate Debtor. Hence, it is made clear that any amount recovered out of the said proceedings shall be credited to the account of the Creditors of the CD (not SRA) in accordance with Sec 53 of the IBC, excluding the expenses incurred by SRA in pursuing the matter. This IA 41 of 2022 will be dealt separately by this bench after the approval of the Resolution Plan.”

- 2.4 The Applicant in terms of the instant application is seeking to have its name substituted in place the Resolution Professional together with directions for amendment of the cause title with the name of the Applicant in the place of the Resolution Professional in I.A. 41 of 2022 in as much since in terms of the approved resolution plan as



well as the order dated 12th August 2022 of this Hon'ble Tribunal, the Applicant herein being the Successful Resolution Applicant shall pursue the said application filed by the Resolution Professional after approval of the resolution plan.

ORDER

3. Heard the Counsels for both the sides at length. The matter was last heard on 03.02.2023, wherein the learned Counsel for the R1, 2 and 3 submitted that she had some reservations on the prayer of the Applicant and was permitted to file the written submissions in this regard. However, till date no written submission has been filed by the Respondents.

4. This Application has been filed under Section 60(5) of IBC, 2016 requesting for passing an order permitting the name of the Applicant i.e. the Successful Resolution Applicant to be substituted in place of the Resolution Professional in IA 41 of 2022 and the said IA 41 of 2022 be amended accordingly.

5. As per the approved resolution plan and our order dated 12.08.2022, it had been agreed upon that the Successful Resolution Applicant would further pursue IA 41 of 2022 after the approval of the Resolution Plan. Hence, we as the adjudicating authority do not find any reason to reject the prayers made in the present application and **therefore prayers made in IA IBC 11 of 2023 is hereby allowed.**

6. The Registry is directed to amend the case title and substitute the name of RP- Mr. Purshotam Gaggar with that of SRA i.e., NK Power and Infrastructure Private Limited in IA IBC 41 OF 2022.

7. Hence the **IA (IBC)/11/60(5)/GB/2023 in IA (IBC)/41/GB/2022 in CP (IB)/4/GB/2021 stands admitted and disposed of accordingly.**

Sd/-

**(Prasanta Kumar Mohanty)
Member (Technical)
& Adjudicating Authority**

Sd/-

**(Deep Chandra Joshi)
Member (Judicial)
& Adjudicating Authority**