

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

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
25-03-2022 AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

**IA 710/2021 and IA (IBC) 57, 58/2022 in
CP(IB) No. 313/7/HDB/2020
U/s 7 of IBC, 2016**

IN THE MATTER OF:

M/s. Platina Properties & Projects Ltd ...**Financial Creditor**

Vs

M/s. Bharani Commodities Pvt Ltd ...**Corporate Debtor**

CORAM:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)**

ORDER

Order is pronounced in IA No.710 of 2021 vide separate sheets. In the result the petition is allowed.


MEMBER (T)

Karim


MEMBER (J)

IA No.57 of 2022

in

CP IB No.313/7/HDB/2020

[UNDER SECTION 60(5) OF I&B CODE R/W RULE 11 OF NCLT RULES]

M/s Rhodium International Trading DMCC
Represented by its Director, Cheam Hing Lee .. Applicant

Vs

CS Bhaskar B
Resolution Professional .. Respondent

IA No.58 of 2022

in

CP IB No.313/7/HDB/2020

[UNDER SECTION 60(5) OF I&B CODE R/W RULE 11 OF NCLT RULES]

M/s Rhodium Europe Limited
Represented by its Director, Cheam Hing Lee .. Applicant

Vs

CS Bhaskar B
Resolution Professional .. Respondent

Date of order : 25.03.2022

Coram:

**HON'BLE DR. VENKATA RAMAKRISHNA BADARINATH
NANDULA, MEMBER (JUDICIAL)**

and

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



Parties / Counsels Present:

IA No.710 of 2021

For applicant/ RP : Ms. Shreya Mundra, Advocate

IA No.57/2022

IA No.58/2022

For applicants : Shri K.V. Raman Manav
Advocate

PER BENCH

COMMON ORDER IN IA/710/21, IA/57/22 & IA/58/22

IA No.710 of 2021 in CP (IB) No.313/7/ HDB/ 2020 is filed by the Resolution Professional under sections 33(1)(A), 33(2) and 34(1) of the I&B Code, 2016, *inter-alia*, praying to pass an order of liquidation against the Corporate Debtor herein in the manner as laid down under section 33(1)(a) of Chapter III of I&B Code, 2016, and to appoint Shri K.J. Vinod as Liquidator for administering liquidation process of the Corporate Debtor.

2. Whereas, IA No.57 of 2022 and IA No.58 of 2022 in CP (IB) No.313/7/ HDB/ 2020 are filed by operational creditors to the Corporate Debtor, praying that the RP to admit their respective claims owed to them



by the Corporate Debtor, and consequently to allow the applicants to participate the CoC of the Corporate Debtor.

3. CP (IB) No.313/7/ HDB/ 2020 was filed by the Financial Creditor/ Platina Properties and projects Ltd under section 7 of the I&B Code, 2016 for initiation of CIRP against the Corporate Debtor / Bharani Commodities Pvt Ltd. This Tribunal vide order dated 18.01.2021 (Pages 10-17) has admitted the petition and declared moratorium, while appointing Shri Bhaskar B as IRP.

4. The IRP had issued public announcement for initiation of CIRP vide publication in Financial Express and Nava Telangana on 22.01.2021 (Pages 18-21).

5. The IRP has constituted the Committee of Creditors and filed list of creditors vide communication dated 12.02.2021 (page 22-33).

Sl. No.	No of the Financial Creditor	Voting Percentage
1.	Platina Properties & Projects Ltd. represented by Shyri P.V. Ramana Reddy.	100%

6. First, Second, Third and Fourth CoC Meetings were held on 19.02.2021, 07.04.2021, 04.05.2021 and 12.08.2021 for various purposes,



the Minutes of which are at pages 34 to 51. Fifth CoC Meeting was convened on 20.10.2021, with an agenda:

“(a) To liquidate the Corporate Debtor, appoint Liquidator, Estimate of liquidation cost and funding (Reg. 39B, 39C and 39D of IBBI Liquidation Regulations) and to proceed with filing of Liquidation Petition before the Hon’ble NCLT as per the provisions of Insolvency and Bankruptcy Code, 2016.”

Fifth CoC vide its Resoluition-1 (page 53) has, *inter alia*, resolved that :

“The Corporate Debtor has not received any Resolution Plans and the CIRP period of 180 days is nearing completion (after considering the COVID exclusion) and hence the Committee of Creditors unanimously decide to liquidate the Corporate Debtor subject to the approval of Hon’ble NCLT, Hyderabad under sec.33 of IBC, 2016.”

7. Heard Ms. Shreya Mundra, learned advocate for the RP in IA No.710 of 2021 and Shri K.V. Raman, learned advocate for applicants in IA (IBC) No.57/ 2022 and 58/ 2022

8. In view of the facts and circumstances as put forth by the Resolution Professional in IA No.710 of 2021 in CP (IB) No.313/7/ HDB/ 2020 and having regard to the resolutions adopted by the Fifth CoC, and by virtue of the fact that this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30, this Adjudicating Authority inclines to exercise 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.

Therefore, this Tribunal proceeds to pass the following order :

- (i) This Adjudicating Authority hereby orders for liquidation of M/s Bharani Commodities Pvt Ltd, 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 K.J. Vinod, having Registration No. IBBI/IPA-003/ IP-N00291/ 2020-2021/ 13451, as Liquidator. He has given his consent vide Form-AA dated 20.10.2021 (page 64) 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 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 K.J. Vinod.
- (viii) In addition to this, the Company Liquidator shall exercise powers and duties as enumerated in Sections 35 to 50, 52 to 54 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 a going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, the 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.

9. Copy of this Order shall be sent to the Registrar of Companies, Telangana, Regional Director, Official Liquidator, Registered Office of the Corporate Debtor and the Company Liquidator viz., Shri K.J. Vinod for information and compliance.

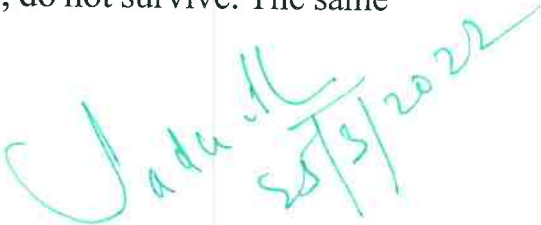


10. The Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.

11. IA No.710 of 2021 in CP(IB) No. 313/7/ HDB/ 2020 is disposed of in the above terms.

12. In view of the above order of liquidation of the Corporate Debtor, M/s Bharani Commodities Private Limited, IA No.57 of 2022 and IA No.58 of 2022 in CP (IB) No.313/7/ HDB/ 2020, do not survive. The same are disposed of as infructuous.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


DR. N.V. RAMAKRISHNA BADARINATH
MEMBER (JUDICIAL)

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