NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

11. I.A. 1436/2022

IN

C.P.(IB)-404(MB)/2018

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **07.06.2022**

NAME OF THE PARTIES: Power Saver Solutions

V/s

Han Ul Technologies Pvt Ltd.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Kiran Martin, Resolution Professional in person with his Counsel Mr. Yash Jariwala is present through virtual hearing.

I.A. 1436/2022

The above Application is filed for Liquidation of the Corporate Debtor Company. The above Application is allowed. Detailed order will follow.

List the main Company Petition on its schedule date on **05.07.2022.**

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

//Rajeev//

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH COURT III

I.A. 1436 OF 2022

IN

CP (IB) – 404/IBC/MB/2018

Under Section 33(2) of the Insolvency & Bankruptcy Code, 2016

Filed by

Ms. Kiran Martin Golla

Resolution Professional for:

Han UI Technologies Private Limited

...Applicant

In the matter of

Power Saver Solutions

53C, Vandana Nagar, Indore – 452001, Madhya Pradesh

...Financial Creditor

Versus

Han UI Technologies Private Limited

Janaki, Plot No. 27, Vidhya Nagar, Pune – 411032, Maharashtra

...Corporate Debtor

Order delivered on: 07.06.2022

Coram:

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

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Mr. Yash Jariwala, Advocate a/w Ms. Kiran Martin Golla, Resolution Professional

1. The above application I.A. No. 1436/2022 is filed by Resolution Professional, Ms. Kiran Martin Golla (hereinafter referred to as the "Applicant") seeking liquidation of Han UI Technologies Private Limited (hereinafter referred to as the "Corporate Debtor") under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

    a. *Pass an order directing the Corporate Debtor to be liquidated for Liquidation of the Corporate Debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and in accordance with Chapter II in Part II of the Insolvency and Bankruptcy Code, 2016;*
    b. *Pass an order for the appointment of the Mrs. Kiran Martin Golla, Registration Number IBBI/IPA-002/IP-N00787/2019-2020/12483 as the Liquidator of the Corporate Debtor under Section 34 of the Insolvency and Bankruptcy Code, 2016 to conduct the liquidation of the Corporate Debtor in accordance with Chapter III in Part II of the Insolvency and Bankruptcy Code, 2016;*
    c. *Pass such other order as this Hon'ble Tribunal may deems fit in the facts and circumstances of the case.*

2. The brief facts of the application are as follows:

    A. The Applicant mentions that this Tribunal vide its order dated 05.11.2018 in Company Petition No. 404/MB/2018 admitted the petition under Section 7 of the Code, filed by Power Saver Solutions (hereinafter referred to as the "Financial Creditor")

and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. Mrs. Jeena Agarwal was appointed as the Interim Resolution Professional (hereinafter referred to as the "IRP") of the Corporate Debtor by this Tribunal.

B. It is further stated by the IRP that on 13.12.2018 a public announcement was made inviting claims from the Creditors of the Corporate Debtor in two newspapers one in english language and one in vernacular language.

C. On 08.01.2019, in the first meeting of the Committee of Creditors (hereinafter referred to as the "CoC") IRP was unanimously voted to be removed as an interim resolution professional. Further on 09.03.2022, this Hon'ble Tribunal after perusing the material facts available appointed Ms. Kiran Martin Golla, Registration No. IBBI/IPA-002/IP-N00787/2019-2020/12483 was appointed as Resolution Professional (hereinafter referred to as the "Applicant") to continue the CIRP process of the Corporate Debtor.

D. The Applicant further states that in the 2nd CoC meeting dated 19.04.2022 the member decided to opt for Liquidation of the Corporate Debtor with 67.18% voting as well as appointing the Applicant as the Liquidator of the Corporate Debtor with 67.18% voting share. The relevant extract of the resolution is reproduced herein below for ready reference:-

Resolution for Liquidation of the Corporate Debtor

*"**RESOLVED THAT** as no resolution plan has been received during the Corporate Resolution Process (CIRP) period, no Registered Office in the name of "Han UL Technologies Private Limited" (CD) as an asset, no operations going on in the*

said company (CD), CD is not a going concern as on date, no employees, workers of any kind, (one Director died and other Director out of country), no Promoters etc., (the said Company (CD) is totally closed), the name of the CD is already shown on the MCA portal as "Struck Off", much before the Insolvency Commencement Date (ICD), CIRP period has gone beyond 330 days (as per section 12 of IBC, 2016, without making any application of extension or exclusion of the CIRP period) and no inventory or fixed assets are there in the company except some bare minimum bank balances or some negative bank balances in the of "Han UL Technologies Private Limited" (CD), Committee of Creditors (CoC) recommends for liquidation of (CD) and Resolution Professional viz., Kiran Martin Golla, is authorised to make an application before Hon'ble NCLT, Mumbai Bench, for liquidation of the CD u/s 33(2) of the IBC, 2016 and cost of filing the application through an advocate shall be part of CIRP cost and paid from the funds available, if any, in the bank accounts of CD."

*"**FURTHER RESOLVED THAT** the Resolution Professional be and is hereby authorised take necessary steps for filing application before the Adjudicating Authority under Section 33(2) of the IBC, 2016 and any other proceedings related or incidental to the matter."*

Resolution for appointment of Liquidator

*"**RESOLVED THAT** subject to the order of the Adjudicating Authority viz. Hon'ble NCLT, Mumbai Bench, under Section 34 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016), Mrs. Kiran Martin Golla, Registration No. IBBI/IPA-002/IP-N00787/2019-2020/12483 shall act as Liquidator,*

during liquidation of the Corporate Debtor till the dissolution of the said Corporate Debtor."

*"**FURTHER RESOLVED THAT** pursuant to Section 34 of the IBC, 2016 and Regulation 39D of the Insolvency and Bankruptcy Board of India (IBBI) (Insolvency Resolution Process for Corporate Person) Regulation, 2016, read with Regulation 4 of IBBI (Liquidation Process) Regulations, 2016, the fees of the liquidation viz. Kiran Martin Golla, shall be a lump sum amount of Rs. 3,00,000/- (Rupees Three Lakh only) + GST for the entire Liquidation Process period till dissolution of the said CD + out of pocket expenses, till the Corporate Debtor is liquidated and the same will be paid from the available balances of the bank accounts of the CD and/or from the proceeds of the Liquidation of the CD and will form part of Liquidation cost.*

RESOLVED FURTHER THAT:

- *Fees shall not include cost of external Advisors such as Legal, Valuation, E-auction process Bid process Advisory etc., basis as per the provision of the IBC, 2016.*
- *Fees shall not include the expenses incurred for protection of the Plant and Machinery and Furniture and fixtures of the Corporate Debtor. (Factory premises rentals and security personnel services, if any)."*

Resolution for Resolution Professional to continue till further orders of the Adjudicating Authority

*"**RESOLVED FURTHER THAT** that said Resolution Professional shall continue as a Resolution Professional shall continue as a Resolution Professional till the receipt of certified copy of order of Liquidation, by the Hon'ble NCLT, Mumbai*

Bench shall be paid fees and the expenses incurred till the receipt of certified true copy of the order passed by Hon'ble NCLT, Mumbai Bench initiating liquidation proceedings against the Corporate Debtor."

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 2nd CoC meeting that the CoC with 67.18% majority decided to liquidate the Corporate Debtor. The Applicant has requested the Bench to appoint Ms. Kiran Martin Golla to carry out the process of Liquidation and the consent for the same has also been received. This bench, therefore allows the above Interlocutory Application Number 1436 of 2022 and passed the following:

ORDER

1. The above I.A. No. 1436/2022 is allowed and the Corporate Debtor Han UI Technologies Private Limited is ordered to be liquidated.

    a. **Ms. Kiran Martin Golla**, having Registration No. IBBI/IPA-002/IP-N00787/2019-20/12483, having office at: Flat No. 1704, T-3, Raheja Tipco Heights, Rani Sati Marg, Malad – E, Mumbai – 400097, Maharashtra 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 in the following manner:
        - A lump sum amount of Rs. 3,00,000/- (Rupees Three Lakh only) + GST for the entire Liquidation Process period till dissolution of the said CD + out of pocket expenses, till the Corporate Debtor is liquidated and

the same will be paid from the available balances of the bank accounts of the CD and/or from the proceeds of the Liquidation of the CD and will form part of Liquidation cost.

- Fees shall not include cost of external Advisors such as Legal, Valuation, e-auction process Bid process Advisory etc., basis as per the provision of the IBC, 2016.
- Fees shall not include the expenses incurred for protection of the Plant and Machinery and Furniture and fixtures of the Corporate Debtor. (Factory premises rentals and security personnel services, if any).

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. 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. 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.

g. 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.

h. 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. 1436 of 2022 is hereby allowed and disposed of.

Sd/-
Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-
H.V. Subba Rao
MEMBER (JUDICIAL)