

MA/33/KOB/2019

In

MA/12/KOB/2019

In

CP/91/2018

**THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

MA/33/KOB/2019

In

MA/12/KOB/2019

In

CP/91/2018 (NCLT Chennai)

(under sections 33(2) and 60(5)(c) OF IBC 2016)

Order delivered on 6th Dec 2019

Coram:

1. Hon'ble Shri Ashok Kumar Borah, Member (Judicial)
2. Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

In the matter of

Report of the Resolution Professional

In

JM Financial Asset Reconstruction Company

Vs.

Unitek Power Solutions (India) Ltd

Respondents

Parties/Counsel present:

RP appeared in person

Counsel for the petitioners

: Nil

Counsel for the respondents

: Nil



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1. This MA is filed by the Resolution Professional of Unitek Solutions India Ltd., a registered un-listed Public Limited Company having its registered Office at XV II/135, Masjid Road, Aluva, Ernakulam 683 101.
2. This Tribunal has admitted the application under section 7 of Insolvency and Bankruptcy Code 2016 on 1.1.2019. Incidentally fire broke out at the registered office of the Company on 25.12.2018 and the Police had filed report to Judicial First Class Magistrate after enquiry. All the necessary procedures as laid down in the IBC code and IBBI (Insolvency resolution process of Corporate Persons) Regulations 2016 (CIRP regulations) has been complied with till the Hon'ble High Court of Kerala had stayed the proceedings on 25.1.2019. Hon'ble High Court of Kerala had dismissed the OP Civil on 25.9.2019. The matter was then transferred to this Bench and this Tribunal vide order dated 6.11.2019 excluded 284 days lost in CIR Process while the proceedings was stayed by Hon'ble High Court of Kerala. This Tribunal has also given specific direction to complete the CIR Process within 330 days specified in IBC 2016. The corporate debtor preferred an appeal before the Hon'ble Supreme Court, which was also dismissed on 13.11.2019.
3. The meeting of the Committee of Creditors was held on 11.11.2019 and 26.11.2019. The Resolution Professional submits that there was no co-operation from the Corporate Debtor to provide data for preparation of information Memorandum in spite of repeated requests.
4. The RP submits that the 2nd meeting of the Committee of Creditors had resolved to recommend liquidation of the Corporate Debtor with 100% voting share. The reasons furnished for liquidation are:



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- (i) Non co-operation of the Corporate Debtor;
- (ii) Non-availability of data to RP for preparation of information Memorandum; and
- (iii) The 330 days time line given by Adjudicating Authority for completion of CIR process elapsed on 27.11.2019.

5. Accordingly, the Resolution Professional prayed as under:

- (A) To accept the recommendations of Committee of Creditors to put the Corporate Debtor under liquidation process.
- (B) Issue appropriate direction to Corporate Debtor for strict compliance of the order of this Tribunal for extending co-operation to the Liquidator appointed in this regard; and
- (C) Issue appropriate orders with regard to release of the leased-out building where the registered office was functioning till 25.12.2018 being the date on which the fire destroyed the building.

6. While praying for the above orders the Resolution Professional has also informed this Bench that because of his other engagements he does not want to continue as liquidator in this case and requested to appoint a new liquidator to complete the proceedings.



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7. We have gone through the resolution passed by Committee of Creditors for liquidation of the Corporate Debtor and also the recommendations of the Resolution Professional, and hereby order for liquidation of the Corporate Debtor under Section 33(2) (5) (6) (7) of IBC, 2016.
8. As the Resolution Professional has expressed his inability to continue as Liquidator, we hereby appoint Shri Ramakrishnan Balakrishnan, Chartered Accountant, having Reg.No.IBBI/IPA/001/IP-P00633/2017-2018/11087) residing at Meena Vihar, Calicut Road, Valanchery P.O., Malappuram – 676 552, Kerala as Liquidator in this case under Section 34(7). He is directed to submit the written consent in specified format within 3 days from the date of this order. The liquidator is governed by Chapter III of Part II and Section 35 of IBC Code, in discharge of his duties and responsibilities as liquidator.
9. The liquidator is directed to take necessary steps regarding the release of the leased-out building where the registered office of the Corporate Debtor is functioning.
10. The Corporate Debtor is directed to comply with the order of this Tribunal and extend full co-operation to the Liquidator to complete the liquidation process in a time bound manner.



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11. Shri Sankar P. Panicker, Resolution Professional is directed to co-operate and hand over all the records to the liquidator which came into his possession as IRP/RP of the Corporate Debtor.

Dated this the 6th day of December 2019.

Sd/-
Veera Brahma Rao Arekapudi
Member (Technical)

Sd/-
Ashok Kumar Borah
Member (Judicial)

Certified to be True Copy

Ashok Kumar Borah
06/12/2019

Deputy Registrar
National Company Law Tribunal
Kochi Bench

Memo No. MA/33/KOB/2019/1059

Date 6.12.2019

To

1. Shri Ramakrishnan Balakrishnan, Chartered Accountant, residing at Meena Vihar, Calicut Road, Valanchery P.O., Malappuram – 676 552, Kerala
(Liquidator)

2. Shri Sankar P. Panicker, R.P.

