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IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI

IA/IBC/899/CHE/2022 in IBA/1064/2019

(Filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***EAP Infrastructure India Pvt. Ltd***

Mr. Chandrasekhar Sagutoor,
Resolution Professional
EAP Infrastructure India Pvt. Ltd,
G5 & G6, Ground Floor,
No.333/17, Salma Arcade Complex,
Kodambakkam Main Road,
Trustpuram, Kodambakkam,
Chennai – 600 024.

... Applicant

*Order Pronounced on **23rd November 2022***

CORAM

JUSTICE (RETD.) RAMALINGAM SUDHAKAR, PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : Bhagavath Krishnan, Advocate

ORDER

***Per:* SAMEER KAKAR, MEMBER (TECHNICAL)**

This Application has been filed by the Applicant herein seeking the following relief:

> *"It is therefore prayed that this Hon'ble Tribunal be pleased to pass orders requiring the Corporate Debtor to be liquidated and such further orders as this Hon'ble Tribunal may deem fit."*

2. It is seen that the CIRP in the matter was initiated vide order dated 02.09.2021 in IBA/1064/2019. The Applicant herein replaced the IRP in the matter vide order dated 05.04.2022 in IA's/262 & 263 of 2022.

3. The CoC in the matter comprises of the following Financial Creditors.

S.No.	NAME OF THE CREDITOR	SHARE IN CoC
1	Indian Overseas Bank	76.88%
2	Karur Vysya Bank Ltd	23.12%

4. It is seen that 4th CoC meeting in the matter was held on 23.05.2022. The minutes and voting results are attached at page Nos. 10 to 49 of the typed set of the Application. The Resolution No. 2 and the voting results are appended at page No. 46 of the typed set of the Application wherein it is seen that the CoC with 100% majority has resolved as under.

"Resolution No 2

To approve the decision on liquidation of the corporate debtor and authorise the Resolution Professional to file application for liquidation of the Corporate Debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

*"**RESOLVED THAT** the CoC be and hereby approve for initiation of liquidation of the corporate debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and the Resolution Professional be and hereby authorized to file the necessary applications, deeds and things that may be required to file before the Adjudicating Authority for initiation of liquidation of the corporate debtor."*

Poll Result: Accepted

1	***Accept***	***Vote Count :2***	***Voting Percentage : 100%***
2	*Reject*	*Vote Count :0*	Voting Percentage : 0%
3	*Abstain*	*Vote Count :0*	*Voting Percentage : 0%*

Voting Table:

1	*Indian Overseas Bank*	*Voted: Yes*	*Voting Percentage : 76.88%*
2	*The Karur Vysya Bank Limited*	*Voted: Yes*	*Voting Percentage : 23.12%*

5. In view of the resolution of the CoC to liquidate the Corporate Debtor, the Applicant herein has filed the present application under Section 33(2) of the Insolvency & Bankruptcy Code, 2016.

6. As the CoC has resolved with 100% voting majority to liquidate the Corporate Debtor, this Tribunal is left with no other option but to order the liquidation of the Corporate Debtor.

7. The written communication of the RP to act as the Liquidator is attached at page Nos. 50 & 51 of the typed set of the Application.

8. Apropos, it can be seen that it satisfies the mandate of 66% voting share under Section 33 (2) of the IBC, 2016. The Section 33 (2) of the IBC, 2016 is extracted hereunder:-

Section 33 (2)

"Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)."

9. It is also seen from the records that the Applicant herein has accorded the written consent, Form AA to act as the Liquidator of the Corporate Debtor and further the Applicant has placed on record a valid AFA till 09.10.2023.

10. In view of the discussions above, the Corporate Debtor is hereby ordered liquidation.

11. In the circumstances, **Mr. Chandrasekhar Sagutoor** with *Reg. No: IBBI/IPA-001/IP-P00960/2017-2018/11581* (email id: sagutoor@gmail.com) is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions:-

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.

d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;

e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.

h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

12. With the above directions, this **IA/IBC/899/CHE/2022** stands **allowed**.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT