

SL. No.9

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(Physical Hearing)

**CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)
CORAM: SHRI CHARAN SINGH - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 15.12.2022 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Intervention Petition/4/2022 IA (IBC)1366/2022 IA(IBC)/1193/2022 in CP(IB) No.134/7/HDB/2020
NAME OF THE COMPANY	Patidar Exim Pvt Ltd
NAME OF THE PETITIONER(S)	Indiabulls Consumers Finance Ltd
NAME OF THE RESPONDENT(S)	Patidar Exim Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

IP 4/2022

For counter 11.01.2023.

IA1366/2022

Ld. Counsel Ms. Mano Ranjani for the Resolution Professional present.

The Application is allowed vide separate order.

IA 1193/2022

Ld. Counsel Ms. Mano Ranjani for the Resolution Professional present.

List on 11.01.2023.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II, HYDERABAD**

I.A. No. 1366/2022 in
C.P. (IB) No. 134/7/HDB/2020
Under Section 33(2) of the IB Code, 2016 r/w
Regulation 3 of the IBBI (Liquidation Process) Regulations, 2016.

In the matter of
M/S PATIDAR EXIM PRIVATE LIMITED

Mr. Sunit Jagdishchandra Shah,
Resolution Professional for M/S Patidar Exim Private Limited,
801-802, 8th Floor, Abhijeet – 1, Mithakali Six Roads,
Navrangpura, Ahmedabad – 380009.

...Applicant/Resolution Professional

Date of Order: 15.12.2022

Coram:

Justice Telaprolu Rajani, Member, Judicial
Sri Charan Singh, Member, Technical

Counsel present:

For the Applicant: Ms. M. Mano Ranjani and Mr. M. Rama Rao, Advocates

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Per : Bench

ORDER

1. This is an Interlocutory Application filed by the Resolution Professional (hereinafter referred to as the “Applicant”) of M/S Patidar Exim Private Limited (hereinafter referred to as the “Corporate Debtor”), under Sections 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code, 2016”), read with Regulation 3 of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter referred to as “the Liquidation Regulations, 2016”), seeking an order for liquidation of the Corporate Debtor and to appoint the Applicant as the Liquidator to administer the liquidation process.

2. Brief facts of the matter as submitted by the Applicant, are as follows:
 - a) Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) had been initiated against the Corporate Debtor, vide order of this Tribunal, dated 04.02.2022, in C.P. (IB) No. 134/7/HDB/2020 and one Mr. Arun Kumar Malani had been appointed as the Interim Resolution Professional, who could not take up the assignment, because of which, the Applicant was appointed as the Interim Resolution Professional, vide order, dated 05.05.2022, in I.A. No. 368/2020. The Applicant was subsequently confirmed as the Resolution Professional by

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the Committee of Creditors (hereinafter referred to as the "CoC"), in its 2nd meeting, dated 13.06.2022.

- b) Subsequent to the 3rd meeting of the CoC, dated 15.07.2022, the Applicant issued the invitation for 'Expression of Interest' (hereinafter referred to as the "EoI"), dated 20.07.2022, in compliance with Section 25(2)(h) of the Code, 2016, inviting prospective Resolution Applicants to submit their EoIs. Subsequently, another invitation for EoI, dated 06.09.2022, was issued.
- c) In the 7th CoC meeting, dated 26.09.2022, it was informed that only two EoIs had been received. However, since one was received after the last date for submission of the EoI, it was not considered by the CoC.
- d) In the 8th CoC meeting, dated 28.10.2022, it was noticed that no Resolution Plan had been received from the sole prospective resolution applicant. In the light of the same, the CoC approved the initiation of liquidation of the Corporate Debtor with a majority vote of 100%. Sale of the Corporate Debtor as a going concern was not approved by the CoC with a vote of 88.88%. Further, the CoC approved the appointment of the Applicant as the Liquidator, at a fee of Rs. 3,00,000/-, along with GST.

Hence, the instant Application has been preferred, seeking an order to liquidate the Corporate Debtor and to appoint the Applicant as the Liquidator to administer the liquidation process.

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3. We have heard the learned counsel for the Applicant and perused the record.
4. It is observed that the CoC has, in its commercial wisdom, approved the liquidation of the Corporate Debtor unanimously, with a 100% majority, in view of the fact that no resolution plans had been received. Necessary resolutions for appointment of liquidator and payment of liquidator's fee have also been passed by the CoC. On consideration of the facts and circumstances of the matter, it is felt prudent to allow the instant Application and permit the liquidation of the Corporate Debtor.
5. Accordingly, in exercise of powers conferred under sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of Section 33 of the Code, 2016, we pass the order as follows:
 - (i) This Adjudicating Authority, hereby, orders for liquidation of the Corporate Debtor, which shall be conducted in the manner as laid down in Chapter III of Part II of the Code, 2016.
 - (ii) This Adjudicating Authority, hereby, appoints the Applicant, Mr. Sunit Jagdishchandra Shah, having Registration No. IBBI/IPA-001/IP-P00471/2017-2018/10814, R/o 801-802, 8th Floor, Abhijeet-1, Mithakali Six Roads, Navrangpura, Ahmedabad, Gujarat – 380009, as the Liquidator of the Corporate Debtor. He shall issue a public announcement stating therein that the Corporate Debtor is in liquidation.
 - (iii) The moratorium declared under Section 14 of the Code, 2016, shall cease to have effect from the date of this order of liquidation.

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- (iv) Subject to Section 52 of the 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 Adjudicating Authority.
- (v) We make it clear that para (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 the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Company Liquidator. In addition to this, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Code, 2016, read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (viii) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- (ix) The Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in accordance with Regulation 4(2) of IBBI (Liquidation Process) Regulations, 2016.
- (x) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, registered office of the Corporate Debtor and the Liquidator, for information and compliance.

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(xi) Registry is directed to furnish a copy of this order to the IBBI for confirmation of appointment of Liquidator.

6. Accordingly, this Application stands disposed of.



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(Charan Singh)
Member, Technical



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(Justice Telaprolu Rajani)
Member, Judicial