IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, CHENNAI

MA/81/2020 in IBA/839/2019 filed under *Section 33 (2)* of the Insolvency and Bankruptcy Code, 2016

In the matter of ***M/s. Bharath Coal Chemicals Limited.***

P. Sriram,
Resolution Professional
M/s. Bharath Coal Chemicals Limited.

... *Applicant /Resolution Professional*

Order delivered on:13.03.2020

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Applicant : *Mr. S. Sathiyanarayanan, Advocate*
For Mr. P. Sriram, Resolution Professional

ORDER

Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Order Pronounced on: 13.03.2020

The above Application is filed by the Resolution Professional appointed by this Tribunal, seeking for the liquidation of the Corporate Debtor under Section 33 (2) of the IBC, 2016. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated on 10.10.2019 and the Applicant herein was appointed as IRP on 11.10.2019 and the IRP caused public announcement was made in newspapers viz "The Hindu-Tamil" (Tamil) and "The Business Standard" (English) calling for the claimants from the Creditors of the Corporate Debtor by virtue of publication dated 15.10.2019. The IRP had received claims from the following financial creditors and other creditors:

Name of Creditors	Amount claimed by the Creditors (in Rupees)	Amount Admitted (in Rupees)	% of voting share	Class of Creditor
Axis Bank Limited (1)	12,51,03,090.00	12,51,03,090.00 (Secured)		Financial Creditor
Axis Bank Limited(2)	15,84,20,485.00	15,84,20,485.00 (Unsecured)		Financial Creditor
	28,35,23,575.00	**28,35,23,575.00**	**100%**	
SVS Limited	252,91,03,301.00	252,91,03,301.00	--	Financial Creditor, related party
Total (A)	281,26,26,876.00	281,26,26,876.00		
Mr.P.M.& Co., Chartered Accountants	5,90,000.00	5,90,000.00	--	Operational Creditor
Total (B)	5,90,000.00	5,90,000.00		
Other Creditors	- Nil -	- Nil -	--	
Total (A) & (B)	**281,31,16,876.00**	**281,31,16,876.00**		

2. Pursuant to the claims received, the CoC was constituted on 30.10.2019 and the 1st meeting of the CoC was held on 07.11.2019. Thereafter, the CoC resolved to appoint the Applicant as the Resolution Professional on 07.11.2019. Pursuant thereto, the applicant appointed 2 IBBI Registered Valuers on 07.11.2019 for valuation of the assets of the Corporate Debtor and it is also evident

from Form-H filed as per directions of this Tribunal, that the fair value and the liquidation value of the corporate debtor are as follows;

S. No	Particulars	Valuation Amount
1.	Fair Value	28,91,46,340/-
2.	Liquidation Value	24,24,82,296/-

3. It is also evident from the averments as stated in the Application that the Applicant has placed the draft Form – G and has sought approval for issue of Expression of Interest for inviting prospective resolution applicants. With the approval of the 2nd COC meeting, invitation for Expression of Interest was published on 10.12.2019 and the last date for submission was fixed on 25.12.2019. The COC in its 3rd meeting held on 03.01.2020 had unanimously resolved to appoint the present Resolution Professional to act as Liquidator subject to approval of the adjudicating authority and to liquidate the corporate debtor and thereby directed the applicant to approach this Tribunal. Learned Counsel for the Resolution Professional represented that the written consent of the Resolution Professional to act as Liquidator has been filed on 04.02.2020. Accordingly, the Applicant has filed the present Application before this Authority under Section 33(2) of IBC, 2016 for the Liquidation of the Corporate Debtor.

4. By taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to this Application

from any stakeholders of the Corporate Debtor and also guided by the decision of the Hon'ble Supreme Court in the matter of **Mr. K. Sasidharan –Vs– Indian Overseas Bank (2019) SCC OnLine SC 257** this Tribunal orders for the liquidation of the Corporate Debtor. In the circumstances, **P. Sriram,** IBBI/IPA-002/IP-P00292/2017-18/10895, 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 him.

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 governs 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, viz., company-in-liquidation.

6. The application stands **disposed of** with the aforesaid terms.

SD
[S. VIJAYARAGHAVAN]
Member (Technical)

SD
[R. VARADHARAJAN]
Member (Judicial)

TJS

NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH

Certified to be True Copy

16.3.2020

ASST. REGISTRAR / DEPUTY REGISTRAR
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