

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
SPECIAL BENCH (video Conference)**

**CORAM: HON'BLE SHRI K. ANANTHA PADMANABHA SWAMY - MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 18.08.2020 AT 11.00 A.M. THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 578,579 &580/2020 in CP No.132/7/HDB/2019
NAME OF THE COMPANY	ICSA (India) Ltd
NAME OF THE PETITIONER(S)	State Bank of India
NAME OF THE RESPONDENTS(S)	ICSA (India) Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-Mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-Mail & Telephone No.	Signature

ORDER

1. Matter taken up for pronouncement of Orders in IA No.578, 579 & 580/2020 in CP(IB)No.132/7/HDB/2019 through Video Conference in view of Notice of the Headquarters dated 17.04.2020 read with Notice dated 03.05.2020.
2. Mr. Mr. Y. Sudhakar, counsel for Applicant in IA No.578/2020 and Mr. S. Keshav Rao, counsel for RP/Applicant in IA No. 579 & 580/2020 appeared through video conference.
3. Orders pronounced, IA No.578 disposed of vide separate order.
4. Orders pronounced, IA No. 579/2020 & 580/2020 are disposed of vide separate order.


MEMBER JUDICIAL

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

**IA No.579/2020
In
CP (IB) No. 132/7/HDB/2019**

In the matter of: M/s. I.C.S.A (India) Limited

G. Murali,
Resolution Professional for
M/s. ICSA (India) Limited
H. No. 16-11-19/4, G-1,
Sri Laxmi Nilayam,
Saleem Nagar Colony,
Malakpet, Hyderabad, Telangana – 500 036.

...Applicant/
Resolution Professional

**IA No.580/2020
In
CP(IB) No.132/7/HDB/2019**

Mr. G.Murali,
Resolution Professional for
M/s ICSA (India) Limited
H.No.16-11-19/4, G-1,
Sri Laxmi Nilayam,
Saleem Nagar Colony,
Malakpet, Hyderabad, Telangana- 500 036.

...Applicant/
Resolution Professional

Order pronounced on: 18.08.2020

Parties/ Counsels Present:-

For the RP:- Mr. S. Keshava Rao, Advocate

Per: K. Anantha Padmanabha Swamy, Member Judicial

ORDER

1. Applications bearing IA No. 579/2020 and IA No. 580/2020 are filed on similar set of facts, therefore both the Applications are disposed of by way of this common order.



2. The Application bearing IA No.579/2020 in CP(IB)No.132/7/HDB/2019 is filed by Resolution Professional U/s. 33 of the IB Code, 2016 inter-alia praying to pass an order of Liquidation against the Corporate Debtor herein and to appoint Mr. Mallikarjuna Setty Nethi (Regd. No. IBBI/IPA-001/IP-P01251/2018-2019/11958) as the Liquidator.
3. The Application IA No. 580/2020 is filed by RP U/s. 60(5) of the I&B Code, 2016 r/w Regulation 40C of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 praying to pass an Order excluding the time period of 98 days calculable from 25-03-2020 to 30-06-2020 from the entire time period of 278 days which includes the time period of 180 days granted for completion of CIRP as far as Corporate Debtor is concerned, as the initial time period of 180 days had come to an end during the Lock Down period imposed by the Government of India and Government of the State of Telangana to eradicate COVID-19 pandemic.
4. Brief facts, as stated by the Applicant in both the Applications inter-alia are as under:-
- a. That the Corporate Debtor herein was admitted for commencement of CIRP vide Order dated 21.10.2019 and the Applicant herein was appointed as IRP. Later in the 1st meeting of CoC held on 29.11.2019, IRP was confirmed as RP.
 - b. That in the 2nd CoC Meeting the issue of 'finalization of Form G Public announcement Date for Expression of Interest and Eligibility Criteria', "RFRP Conditions and Evaluation Matrix to select the Resolution Plan" were discussed. During the course of discussions basing upon the information available with the

Resolution Professional and also information given by Ex-CMD of Debtor, it was found that there were no ongoing projects, therefore, CoC was of the opinion that it would be better going for Liquidation directly and advised the Resolution Professional to obtain Legal Opinion on the said aspect.

- c. That in the 3rd CoC meeting apart from various other issues, the Resolution Professional had shared the Legal Opinion, wherein it was opined that as per the Provisions of Insolvency & Bankruptcy Code, 2016, the CoC at any time after their constitution by not less than 66% of voting can decided to Liquidate the Corporate Debtor. Since there were no ongoing projects on hand of Corporate Debtor; no operations and no activity during the last five years and since the Corporate Debtor was left with only two piece of land property and wind mill, the CoC had decided to proceed with Liquidation instead of calling for EoI.
- d. That in the 5th Meeting of CoC dated 23.06.2020, various aspects were deliberated upon and it was decided that E-voting shall be taken up for deciding on the aspect of Liquidation under Section 33(1)(a) and the said Agenda of initiating Liquidation Process was supported by 75.05% votes and as such it was decided to go for Liquidation. That in the above said meeting of CoC, in view of reluctance of the Resolution Professional to take up the role of Liquidator, the CoC had unanimously decided to engage services of one Mr. Mallikarjuna Setty Nethi (Regd No. IBBI/IPA-001/IP-P01251/2018-2019/11958) and it was also decided that the proposed Liquidator's Fee would be 65% of the Fee to be arrived as per I&B Code, 2016, calculated on the realization of assets and not on monthly fixed payment.

- e. In view of the above gamut of facts and also because of the reason that there are no live projects in favour of the Corporate Debtor; as the Corporate Debtor is not a going concern and in view of the fact that there could not be any invitation for EoI and further in view of the fact that CoC by majority of Vote of 75.05% have decided to go for Liquidation of the Corporate Debtor.
- f. That as per Section 12 of I&B Code, 2016 the entire CIRP has to be completed within 180 days from the date of admission of the Company Petition. The present Company Petition was admitted on 21.10.2019 and 180 days came to an end on 18.04.2020. In view of the fact that the CoC in its 5th Meeting had decided to go ahead with Liquidation, it had become imperative that the lockdown period commencing from 25.03.2020 and ending on 30.06.2020 i.e., a period of 98 days be excluded for the purpose of calculation of 180 days for CIRP.
5. Reiterating above, counsel for the Applicant prayed to dispose of the Applications on an urgent basis at the earliest.
6. Heard and perused the records.
7. The Applicant/RP inter-alia has moved two Applications, wherein he is seeking to exclude the time period of lockdown and also to pass an order of Liquidation. As seen the records, it is observed that the CoC has already resolved for Liquidation in its 5th CoC meeting dated 23.06.2020 with 75.05% votes.
8. Such being the case, this Adjudicating Authority observe that there is no any merit in submissions of RP as the exclusion sought by the RP is explicitly covered under Regulation 40C of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Accordingly IA No. 580/2020 stands disposed.

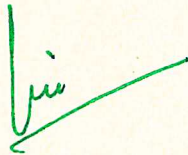
9. In view of the reasons as recorded by RP in IA No. 579/2020, approval of CoC in its 5th meeting dated 23.06.2020, with 75.05% of votes cast in favour of Liquidation and fact that the Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016, this Adjudicating Authority deems it proper to allow the Application bearing IA No. 579/2020 as prayed for. 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 I&B Code, 2016, I proceed to pass Order as follows:—

- (i) This Adjudicating Authority hereby order for Liquidation of M/s. I.C.S.A. (India) Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
 - (ii) This Adjudicating Authority hereby appoint Mr. Mallikarjuna Setty Nethi who has given his consent letter dated 17.08.2020 to act as Liquidator in the present case along with Form B i.e., Authorisation for Assignment. He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;
 - (iii) The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;
 - (iv) Subject to Section 52 of the I&B 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 Authority.
 - (v) I 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.
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- (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 viz., Mr. Mallikarjuna Setty Nethi. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w 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 keep in view the provisions of Regulation 32A of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the assets of the Corporate Debtor under clauses (a) to (d) of Regulation 32 of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016.
- (x) The Company Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in such a proportion to the value of the Liquidation estate assets as specified by the Board under Regulation 4(3) of IBBI (Liquidation Process) Regulations,

2016. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation estate.

- (xi) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. Mallikarjuna Setty Nethi for information and compliance.
- (xii) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.
- (xiii) Accordingly, Applications bearing IA No. 579/2020 & 580/2020 stands disposed off.



K.ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERBAD**

IA No.578/2020
In CP(IB) No.132/7/HDB/2019

In the matter of :-
M/s ICSA (India) Ltd.

Between:

M/s. Reach Cargo Movers Pvt. Ltd.
A Private Limited Company, Office
Situated at Plot No.A-484, Wagle
Industrial Estate, MIDC Road No.24,
Thane (WEST), Pincode-400 604.
Maharashtra, INDIA,
(Rep. by its authorized Signatory
Mr. Tushar Rajnikant Joshi,)

...Applicant

And

M/s I.C.S.A (INDIA) Limited,
Regd. Office: Plot No.1091, Khanamet,
Madhapur, Serilingampally Mandal,
Hyderabad, Ranga Reddy District,
Telangana-500081, INDIA

...Respondent

Date of Order: 18.08.2020

Parties/Counsel Present:

For the Applicant:

Mr. Y. Sudhakar Rao, Counsel

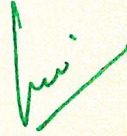
Per: Shri. K. Anantha Padmanabha Swamy, Member Judicial.

ORDER

1. The present IA No. 578/2020 is filed praying to condone delay of 56 days in filing the claim before the Resolution Professional and direct the Resolution Professional to consider the claim of the Petitioner company and to decide the said claim on the grounds of merits.



2. The instant Application is inter-alia filed seeking condonation of delay of 56 days in filing claim with the RP. This Adjudicating Authority has passed an order of Liquidation vide IA No.579/2020 and appointed Mr. Mallikarjuna Setty as the Liquidator.
3. In view of the order of liquidation and appointment of Liquidator, this instant IA is closed as infructuous. However, the Applicant is at liberty to make his claims before the Liquidator.



K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

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