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BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT 1

IA 874 of 2020 in CP(IB) 441 of 2018

Coram: MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)  
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE THE AHMEDABAD BENCH OF THE  
NATIONAL COMPANY LAW TRIBUNAL ON 03.03.2021

Name of the Company:

Mr. Omkar Maloo  
V/s  
Sonali Energiees Pvt Ltd

Section:

33 of Insolvency and Bankruptcy Code, 2016

**ORDER**

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.

  
(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)

  
(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

Dated this the 3rd day of March, 2021.

vc

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT -I**

**I.A. No. 874 of 2020  
IN  
CP(IB) No. 441/9/NCLT/AHM /2018**

**In the matter of :**

[An Application is filed under Section 33 of the Insolvency & Bankruptcy Code, 2016]

AND

**In The Matter Of:**

**Mr. Omkar Maloo**

Resolution Professional for

Sonali Energiees Private Limited (Corporate Debtor )

having address at:

403, Shaival Plaza,

Near Gujarat College,

Ellisbridge, Ahmedabad-380 006

..Applicant

Versus

Sonali Energiees Private Limited

having address at:

C-208, Belgium Chambers,

Opp. Liner Bus Stand, Ring Road,

Surat-395 003

..Respondent

**Order Reserved on: 01.03.2021**  
**Order Pronounced on: 03.03.2021**

**Coram: MADAN B GOSAVI, MEMBER(J)  
VIRENDRA KUMAR GUPTA, MEMBER (T)**

**Appearance:**

Learned Counsel Mr. L.M. Patel appeared for the Applicant.

**ORDER**

**[Per: VIRENDRA KUMAR GUPTA, Member (T) ]**

1. The present Interlocutory Application is filed by the Resolution Professional seeking for passing an Order of liquidation under Section 33 of the Insolvency & Bankruptcy Code, 2016 for initiation of Liquidation Process of **Sonali Energiees Private Limited** -the Corporate Debtor.
2. The facts, in brief, are that, this Adjudicating Authority admitted Corporate Debtor in to Corporate Insolvency Resolution Process vide its order dated 13<sup>th</sup> January, 2020 in CP(IB) No. 441/9/NCLT/AHM/2018 filed under Section 9 of the IBC, 2016, wherein Mr. Omkar Chand Maloo, Insolvency Professional appointed as "IRP".
3. The IRP made the public announcement as contemplated under the provision of Section 15 of the Code and invited the claims from Creditors in prescribed Forms which was published and "Nav Gujarat Times" in vernacular language

on 28.01.2020, wherein, Resolution Professional has received three claims amounting to Rs. 43,78,590/- .

4. The Resolution Professional called for first meeting of the CoC on 20.02.2020, wherein CoC unanimously decided to appoint IRP Mr. Omkar Chand Maloo as the Resolution Professional. A copy of the minutes of the meeting is attached with the application.
5. It is submitted that pursuant to Regulation 27 of the IBBI (Corporate Insolvency Resolution Process) Regulations, 2016. Mr. Shirish Sharma and Ms. Prayati Shah were appointed as Valuer of the Corporate Debtor with professional fee of Rs. 65,000/- + GST and Rs. 55,000/- + GST respectively. To perform statutory audit of the Corporate Debtor, the Resolution Professional has appointed erstwhile auditor Mr. Shah Mehta & Associates. the minutes of the second meeting is attached with the application.
6. The Applicant/Resolution Professional in compliance of his duties made public announcement in Form-G dated 25.09.2020 in "Time of India" & " Divya Bhaskar", Surat

Edition inviting EOI from the prospective Resolution Applicant. The Applicant submits that the last date for submission of EOI was 25.11.2020. In response to the public announcement Resolution Professional did not receive any resolution plan.

7. It is noted that in the fifth meeting of CoC dated 03.11.2020, the members of CoC through E-voting decided to liquidate the Corporate Debtor. The resolution regarding continuation of the Resolution Professional as the "Liquidator" with a fees as prescribed under Rule 4(2) and 4(3) of the IBBI (Liquidation Process) Regulations, 2016 was also passed unanimously by members of CoC. The minutes of the said meeting is attached with the application.
8. The Applicant submits that as no resolution plan or EOI received and the operations of the Corporate Debtor were suspended for more than 2 years, the members of CoC resolved to initiate liquidation process of Corporate Debtor.
9. The CoC and the Resolution Professional have formed a view that there will be no situation of contribution towards CIRP /liquidation cost, as there exist sufficient assets to

meet such costs. Hence, necessary resolution as per Regulation 2A of Insolvency and Bankruptcy Board of India (Liquidation Process) has not been passed.

10. In our view they should have passed Resolution in specific terms, however, considering the factual situation, we in the present case as a special instance waive the requirement of passing of such resolution, before filing an application for liquidation. However, considering the facts, we hold that Corporate Debtor needs to be liquidated. Accordingly, we pass the order of liquidation in terms indicated.

### ORDER

1. We hereby pass the order of liquidation of the Corporate Debtor Company **Sonali Energiees Private Limited** and allow IA No. 874 of 2020. The Liquidation of the Corporate Debtor is effective from the date of this order.
2. The Moratorium declared vide order dated 13.01.2020 in CP(IB) No. 441/9/NCLT/AHM/2018, henceforth, ceases to exist.

As per the Section 34(1) of the I.B. Code, the Applicant/  
Resolution professional, **Mr. Omkar Chand Maloo**

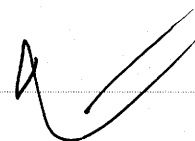
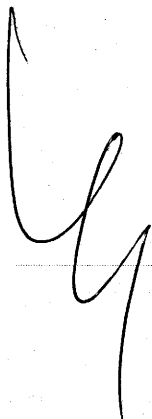
**(Registration No IBBI/IPA-002/IP-P00435/2017-**

**2018/10758** is hereby appointed as a 'Liquidator' of the Company **Sonali Energiees Private Limited.**, which has been duly approved by CoC in its fifth meeting dated 03.11.2020.

4. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.
5. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
6. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this

Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

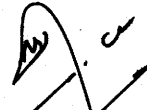
7. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.
8. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
9. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional cum Liquidator by Speed-post within one week from this order.



10. **Accordingly, I.A. No. 874 of 2020 is allowed and stands disposed of a.w. main CP(IB) No. 441 of 2018. The Liquidator to file preliminary/progress report as per the Regulations before this Authority.**



**(VIRENDRA KUMAR GUPTA)  
MEMBER (T)**



**(MADAN B. GOSAVI)  
MEMBER (J)**

Signed on this, the 3<sup>rd</sup> March, 2021.

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