

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

(Video Conference)

CORAM: HON'BLE BHASKARA PANTULA MOHAN –MEMBER JUDICIAL
CORAM: HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 21.07.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/713/2021 in CP (IB) No.466/7/HDB/2019
NAME OF THE COMPANY	Athena Energy Ventures Pvt Ltd
NAME OF THE PETITIONER(S)	State Bank of India
NAME OF THE RESPONDENT(S)	Athena Energy Ventures Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

IA 713/2021 in CP (IB) No.466/7/HDB/2019 filed under Section 33 is allowed. Orders pronounced vide separate sheets.

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MEMBER (T)

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MEMBER (J)

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

**IA No: 713/2021
In
CP(IB)No.466/7/HDB/2019**

In the matter of: Athena Energy Venture (P) Ltd.

Mr. Kumar Rajan,
RP-for M/s. Athena Energy Venture (P) Ltd.
607,6th floor, Shangri-La Plaza , Road No:2,
Opp. KBR Park, Banjara Hills,
Hyderabad-500029.
Telangana

**...Applicant/
Resolution Professional**

Date of Order: 21.07.2022

**Coram: Shri Bhaskara Pantula Mohan, Member Judicial
Dr. Binod Kumar Sinha, Member Technical**

Parties/Counsel(s) Presents:

For the Applicant: Mr. S. Keshava Rao, Advocate

[Per Bench]

ORDER

1. The present Application bearing IA No. 713/2021 in CP(IB)No: 466/7/HDB/2019 is filed by Resolution Professional herein, *inter-alia*, praying to pass the order of liquidation of the Corporate Debtor U/s. 33(2) of the I&B Code, 2016 and to appoint Mr. Kumar Rajan, RP as Liquidator U/s. 34(1) of the I&B Code, 2016.



2. Brief facts as stated by the counsel for the Applicant are as follows:-
- a. That M/s. State Bank of India (Financial Creditor) has filed an Company Application bearing CP(IB)No.466/7/HDB/2019 against M/s. Athena Energy Venture Private Limited (Corporate Debtor) under Section 7 of the IB Code and vide order dated 04.03.2020, this Adjudicating Authority dismissed the said Application. Aggrieved by the said order, the applicant/SBI approached the Hon'ble National Company Law Appellate Tribunal by way of an appeal bearing No. CA(AT)Ins No.633 of 2020. The Hon'ble Appellate Tribunal allowed the said appeal vide orders dated 24.11.2020 and the Corporate Debtor was admitted to CIRP. That Mr. C. Bala Mouli was appointed as the Interim Resolution Professional.
 - b. That an Application bearing IA(IBC) No.210/2021 dated 26.04.2021 was filed by Mr. C. Bala Mouli, IRP of Athena Energy Ventures (P) Ltd. seeking clarification whether to accept the assignment as a special case and to act as IRP of Corporate Debtor without requisite Authorization for Assignment as prescribed under the Code and Regulations thereunder. The Adjudicating Authority upon understanding that the principal borrowers-APCL was admitted for liquidation and Mr. Kumar Rajan was appointed as Liquidator, had passed an order dated 5.08.2021, thereby appointing Mr. Kumar Rajan to act as IRP in the matter of Athena Energy Ventures (P) Ltd.

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- c. That Mr. Kumar Rajan, after being appointed as IRP for the Corporate Debtor, took charge of the affairs of the Corporate Debtor and conducted 1st and 2nd CoC meetings on 09.09.2021 and 04.10.2021 respectively. That in the 2nd meeting of CoC dated 04.10.2021, it has been resolved for early liquidation of the Corporate Debtor with a majority of 86.80% voted in favour of liquidation and CoC with 85.20% of voting share has approved for appointment of Mr. Kumar Rajan, Resolution Professional as the Liquidator with fees approved in the first CoC meeting. Further CoC has also accorded necessary approval in relation to the estimated budget to be incurred by the Liquidator during liquidation period. The following resolutions have been passed by CoC:

“Resolved That approval for early liquidation of the Corporate Debtor and authorize the Resolution Professional to file a Liquidation application before Hon’ble NCLT, Hyderabad Bench is hereby approved.

“Resolved That approval for resolution for appointment of Mr. Kumar Rajan (Resolution Professional) as Liquidator with fees approved in the first CoC meeting is hereby approved”

- d. Basing on the above, the Applicant herein has moved the present Application under section 33(2) of Insolvency and Bankruptcy Code, 2016 praying this Adjudicating Authority for

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initiation of Liquidation process with respect to the Corporate Debtor Company.

Reiterating above, RP prayed to allow the Application as prayed for.

3. Heard the RP and perused the records.
4. In view of the facts and circumstances as recorded by RP in IA No. 713 of 2021 filed in CP(IB) No.466/07/HDB/2019, this Adjudicating Authority has not received any Resolution Plan under Section 30(2) of the IB Code, 2016 and the Resolution Professional has intimated the decision of the CoC to liquidate the Corporate Debtor with a resolution approved by the requisite voting percentage of 66% or more. Necessary resolutions for appointment of liquidator and payment of liquidator's fee have also been passed by CoC. Thus, this Adjudicating Authority deems it proper to allow the Application bearing IA No. 713/2021 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, we proceed to pass Order as follows:—

- (i) This Adjudicating Authority hereby order for Liquidation of M/s. Athena Energy Ventures (P) Ltd. 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. Kumar Rajan, as liquidator of the Corporate Debtor, as approved by CoC. He

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- is directed to file his written consent to act as Liquidator along with valid Authorization for Assignment within three days from date of this order. 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) 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 viz., Mr. Kumar Rajan. In addition to

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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 as a going concern 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 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.
- (xi) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor

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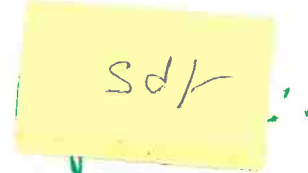
and Company Liquidator viz., Mr. Kumar Rajan for information and compliance.

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

5. Accordingly, this Application bearing IA No. 713/2021 stands disposed off.



Dr. BINOD KUMAR SINHA
MEMBER TECHNICAL



BHASKARA PANTULA MOHAN
MEMBER JUDICIAL

Santi/SKRathi