

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
24-03-2022 AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

**IA 1093/2020,
IA 516, 876, 877, 1180, 1181 & 1182/2020 &
IA (IBC) 575 & 587/2021 in
CP (IB) No.105/9/HDB/2019**
U/s 9 of IBC, 2016

IN THE MATTER OF:

Shiva Parvati Poultry Feed Pvt Ltd

...Operational Creditor

Vs

Parameswara Poultry Farm Pvt Ltd

...Corporate Debtor

CORAM:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA No.1093/2020

Liquidation Orders passed IA No.1093/2020 vide separate orders.

IA No.516,876,877/2020

Since liquidation order is passed in IA No.1093/2020, these applications are closed, however, giving liberty to the petitioners to approach the liquidator and liquidator is directed to consider the same as per rules.

Accordingly IA'S 516,876,877/2020 are closed.

IA No.1180/2020 in IA No.875/2020

IA No.875/2020 is already disposed of hence IA No.1180/2020 becomes infructuous.

IA No.1181/2020 in IA No.1093/2020

IA No.1093/2020 is allowed, hence IA No.1181/2020 becomes infructuous.

IA No.1182/2020 in IA No.874/2020

IA No.875/2020 is already disposed of hence IA No.1182/2020 becomes infructuous.



 Cont..

**IA 1093/2020,
IA 516, 876, 877, 1180, 1181 & 1182/2020 &
IA (IBC) 575 & 587/2021 in
CP (IB) No.105/9/HDB/2019
U/s 9 of IBC, 2016**

IA No.575&587/2021

Learned RP Shri Raghu Babu, is present.

Learned proxy counsel Shri Jagadish, appeared for respondent via video conference.

List these IA's for hearing on the next hearing date, lest opportunity stands closed.

List the matter on 21.04.2022.


MEMBER (T)

Pavani


MEMBER (J)

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

IA No. 1093 of 2020

in

CP (IB) No. 105/9/HDB/2019

Application filed under U/s 33 (2) of IBC, 2016

IN THE MATTER OF

SRI PARAMESWARA POULTRY FARM PRIVATE LIMITED

Filed by:-

Raghu Babu Gunturu
Resolution Professional
402B, 4th Floor, Technopolis, Chikoti Gardens
Begumpet, Hyderabad – 500016

...Applicant

Date of order: 24.03.2022

Coram:

Dr N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)

Shri Veera Brahma Rao Arekapudi, Hon'ble, Member (Technical)

Parties / counsels present:

For the Applicant: Shri V.V.S.N. Raju, Advocate

PER: BENCH

1. The Resolution Professional (for short RP) appointed by this Tribunal, for the Corporate Debtor/ M/s SRI PARAMESWARA POULTRY FARM PRIVATE LIMITED, has filed this application under Section 33(1)(a) of Insolvency & Bankruptcy Code, 2016 praying this Tribunal to pass order of liquidation of the Corporate Debtor.



2. The gist of the Application in brief are:-
 - (1) To put concisely, the Company Petition filed by Shiva Parvati Poultry Feed Private Ltd u/s 9 of IBC, 2016 was admitted by the Adjudicating Authority vide Order Dated 17.09.2019 and ordered commencement of initiation of CIRP against it. The Applicant herein was appointed as Interim Resolution Professional (IRP), who continued as Resolution Professional.
 2. The CIRP period of 180 days came to an end on 15.03.2020. After granting 90 days extension and exclusion of 54 days covid induced lockdown, the CIRP came to an end on 24.10.2020.
 3. Pursuant to publication of notice inviting claims from the creditors of the Corporate Debtor, the IRP after collating and verifying the claims, constituted Committee of Creditors (COC) with sole member i.e. Andhra Bank (presently Union Bank of India). Subsequent to revision of List of Creditors on 07.09.2020, the CoC was reconstituted with Union Bank of India (voting % - (99.23%) and Binjusaria Solvents Private Limited (voting %-0.77%).
 4. The Applicant had issued public announcement inviting Expression of Interest in Form-G on 04.12.2019 but received no responses. The Resolution Professional conducted 12 CoC meetings in all, the synopsis of the meetings is detailed at para ix (page 5 & 6 of the application).





5. The Applicant submits that IA No. 1132 of 2019 was filed seeking directions to Suspended Board for cooperation in CIRP and this Tribunal directed the suspended board to co-operate with the CIRP. Similar order was passed in IA 447 of 2020 on 22.07.2020. Due to non-cooperation from the Directors and employees in providing information of Corporate Debtor in CIRP process, the valuation of assets of Corporate Debtor completed during October and November 2020 with the limited information provided. The Applicant further was unable to determine the PUFÉ transactions due to non-cooperation of CD directors in providing information.
6. The Applicant also referred to Section 12-A application dated 15.06.2020 submitted by the Operational Creditor, who is the petitioner in the company petition, which was placed before the CoC for their consideration. However, one of the members of CoC i.e. Union Bank of India dissented to withdraw the CD from CIRP. Consequentially, in the 12th CoC meeting held on 19.10.2020, the CoC decided to proceed with the liquidation and the e-voting ended on 04.11.2020. The CoC with 99.23% voting, resolved to proceed with the liquidation of Corporate Debtor. However, resolutions for appointment of Resolution Professional as Liquidator and contribution of the Liquidator's fee by the Union Bank of India, were not approved.



7. The Resolution Professional is further requesting to condone a delay of 20 days in filing this application on the ground that the Union Bank of India has sought extension of timeline for voting on the resolution for the liquidation of CD.
8. We have heard the Ld. Counsel for the Resolution Professional, perused the records and case laws.
9. Even according to the Applicant, no resolution plan has received the approval by the COC within the timeline prescribed under the Code i.e. despite completion of 270 days of CIRP and exclusion of 54 days granted.
10. It is further noted from the resolutions passed by the CoC meetings that though the Resolution Professional has given his consent to act as Liquidator of the Corporate Debtor, the CoC has rejected the appointment of Resolution Professional as Liquidator. Subsequently, a memo dated 21.01.2021 has been filed, enclosing the consent of Mr. Kasa Venkata Ramaniah, having IBBI Registration No. IBBI/IPA-003/IP-N00066/2017-18/10552, to act as Liquidator.
11. We are fully conscious of the fact that the primary object of IBC is resolution and liquidation is the last resort. At the same time keeping the timelines prescribed under the IBC is paramount, lest asset value gets deteriorated. Therefore, taking into consideration the provisions of law as well as the documents on record, this Adjudicating Authority is of the view that since the efforts to obtain resolution of the Corporate Debtor have failed, the only option left under the



circumstances being early liquidation process, we allow this petition, directing the liquidation of the Corporate Debtor.

12. Before we part with, we would like to refer to the ruling of Hon'ble Supreme Court in Innoventive Industries Limited Vs ICICI Bank & Anr in Civil Appeal No. 8337-8338 of 2017, wherein it has been held as follows :-

"From the viewpoint of creditors, good realization can generally be obtained if the firm is sold as a going concern. Hence, when delays induce liquidation, there is value destruction. Further, even in liquidation, the realization is lower when there are delays. Hence, delays cause value destructions. Thus, achieving a high recovery rate is primarily about identifying and combating the sources of delay"

13. We therefore hope that the Liquidator whom we have appointed would sincerely endeavor to sell the Corporate Debtor as a going concern without delay, however by observing the relevant provisions contained in IBC as well as in IBBI (Liquidation Process) Regulations and thus ensure that one of the objects of the IBC viz. maximization of the assets of the Corporate Debtor is not diluted.

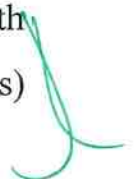
ORDER

- (a) We hereby condone the delay of 20 days in preferring this IA on the grounds stated supra.
- (b) The Corporate Debtor, M/s. Sri Parameswara Poultry Farm Private Limited, is put under liquidation process in the manner laid down in Chapter-III of the Code with effect from the date of order.



- (c) Mr. Kasa Venkata Ramaniah, having IBBI Registration No. IBBI/IPA-003/IP-N00066/2017-18/10552, #R/o Flat No. 510, Raja's Courtyard, Upperpalli, Near ICBM College, Hyderabad, is appointed as Liquidator.
- (d) The erstwhile RP is directed to handover the records to the Liquidator appointed by this Tribunal forthwith.
- (e) He shall issue public announcement stating that the Corporate Debtor is in liquidation in terms of Regulation 12 of IBBI (Liquidation Process) Regulations, 2016.
- (f) The Moratorium declared under Section 14 of the code shall cease to have its effect.
- (g) Subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Person. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- (i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.





- (j) Personnel connected with the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as would be required for managing its affairs.
- (k) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- (l) 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.
- (m) The Applicant herein is directed to serve a copy on the Liquidator appointed herein above.
- (n) The Regional Director, Ministry of Corporate Affairs, Registrar of Companies & Official Liquidator, Hyderabad, the Registered Office of the Corporate Debtor and the Liquidator.


(VEERA BRAHMA RAO AREKAPUDI)
MEMBER (TECHNICAL)


(DR N.V. RAMAKRISHNA BADARINATH)
MEMBER (JUDICIAL)

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