SL. No.124

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Video Conference

CORAM: HON'BLE BHASKARA PANTULA MOHAN,–MEMBER (J)
CORAM: HON'BLE DR. BINOD KUMAR SINHA,-MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 09.06.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/420/2021 in CP (IB) No.246/9/HDB/2020
NAME OF THE COMPANY	Seshasaila Power and Engineering (P) Ltd
NAME OF THE PETITIONER(S)	Sri Lalitha Equipments
NAME OF THE RESPONDENT(S)	Seshasaila Power and Engineering (P) Ltd
UNDER SECTION	9 of IBC

ORDER

Learned Counsel for the Resolution Professional appeared in person.

IA(IBC)/420/2021- Order pronounced vide separate detailed Order.. Liquidation allowed.

SD/-

MEMBER (T)

SD/-

MEMBER (J)

Ajay

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

CA No.420 of 2021
In CP (IB) No.246/09/HDB/2020

In the matter of
M/s. SESHA SAILA POWER AND ENGINEERING PRIVATE LIMITED

Mr. Gonugunta Murali,
Interim Resolution Professional
IBBI Registration No.
IBBI/IPA-001/IP-P00654/2017-2018/11139
Working at MSKM Group Flat No.1209,
11th Floor, Vasavi MPM Grand,
Yella Reddy Guda, Ameerpet,
Hyderabad, Telangana.

... Applicant /
Resolution Professional

Date of Order: 09.06.2022

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

Parties/Counsels present:

For the Applicant: Mr. D. Raghavendar Rao, Advocate,

Per: Bench

ORDER

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1. The present Application bearing CA No. 420/2021 in CP(IB)No.246/9/HDB/2020 is filed U/s. 33(2) of the I&B Code, 2016 by Interim Resolution Professional *inter-alia* to:-
   a. Pass an order under section 33(2) of the Code allowing the liquidation of the Corporate Debtor.
   b. That this Adjudicating Authority be pleased to appoint Mr. Anil Seetaram Vaidya (IBBI/IPA-002/IP-N00067/2017-18/10145) as liquidator for undertaking the liquidation process of the Corporate Debtor as per the provisions of the Code along with all the powers to engage, appoint such advisors or any other advisors as he may deem fit in order;
2. Brief facts as stated by the counsel for the Applicant are as follows:-
   a. That this Adjudicating Authority vide its order dated 26.03.2021 admitted the captioned Company Petition ("Admission Order") and initiated the Corporate Insolvency Resolution Process ("CIRP") in respect of the Corporate Debtor and appointed this applicant as the Interim Resolution Professional (IRP) in respect of the Corporate Debtor.
   b. That the Applicant made a public announcement as per Form A contained in the Code, more specifically in terms of Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency

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Resolution Process for Corporate Persons) Regulations, 2016 (the "CIRP Regulations"), providing intimation of the initiation of CIRP of the Corporate Debtor, which was published in Financial Express (English daily) on 01st April 2021 and Mana Telangana (Telugu Daily) ("Public Announcement") calling upon Creditors to submit their proofs of claims and the last date of submission of Claims was fixed as 14.04.2021. The IRP had received two claims from Financial Creditors and one from operational creditor. IRP constituted the Committee of Creditors as per Section 21(1) of the Code.

c. That in the 4th CoC meeting held on 06.07.2021, the IRP suggested for issuance of Form-G and to await any resolution plans as per the timelines stipulated under the Code. However, the CoC has approved by 100% voting share to proceed with the liquidation of the Corporate Debtor directly instead of CIRP process, due to the lack of operations in the Corporate Debtor for more than 10 years and lack of feasibility to continue with the CIRP process.

d. That the Corporate Debtor is not a functioning entity thereby the CoC in its 4th meeting held On 06.07.2021 unanimously resolved to go directly for liquidation.

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e. That the CoC members have also unanimously proposed Mr. Anil Seetaram Vaidya (IBBI/IPA-002/IP-N00067/2017-18/10145) to be appointed as the Liquidator. The consent form of the said proposed Liquidator is also filed along with this application. The proposed Liquidator i.e., Mr. Anil Seetaram Vaidya may be appointed on following terms and conditions:

   i. Professional fees of Liquidator – Rs.75,000/- per month plus GST as applicable and

   ii. Other costs & expenses such as Administrative costs and out of pocket expenses, public announcement, etc. to be paid on actual basis.

3. That on 12.10.2021, the RP filed a memo enclosing minutes of 5th CoC meeting dated 29.09.2021, enclosing necessary resolutions passed under Regulation 39B, C & D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The same has been perused.

4. Heard the RP and perused the records.

5. In view of the facts and circumstances as recorded by IRP in CA No. 420 of 2021 filed in CP(IB) No. 246/9/HDB/2020, since this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016, this

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Adjudicating Authority deems it proper to allow the Application bearing CA No.420/2021. 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. Sesha Saila Power and Engineering Private 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. Anil Seetaram Vaidya as Liquidator as resolved by CoC. He is directed to file his consent to act as Liquidator in the present case along with valid Authorisation for Assignment (AoA) within 7 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

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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. Anil Seetaram Vaidya. 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

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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 Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in accordance with the decision taken by the CoC under Regulation 39D of IBBI (Insolvency Resolution Process Corporate Persons) Rules, 2016 read with Regulation 4(1) 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 and Company Liquidator viz., Mr. Anil Seetaram Vaidya for information and compliance.

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

6. Accordingly, Application bearing CA No. 420/2021 stands disposed off.

Dr. Binod Kumar Sinha
Member Technical

Bhaskara Pantula Mohan
Member Judicial

Santi/SKRathi