

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH-II, CHENNAI**

IA/IBC/920/CHE/2022

in

CP No 232/CHE/2021

(filed under Sections 33 (2) of the Insolvency and Bankruptcy Code,
2016)

In the matter of **JKS CONSTRUCTION PRIVATE LIMITED**

Raghu Babu Gunturu

RP of M/s JKS Construction Private Limited
1st Floor, Golden heights, Plot 9
Opp: Raheja IT Mindspace,
HUDA Techno Enclave, Madhapur,
Hyderabad,
Telengana- 500 081

... Applicant/ Resolution Professional

Order pronounced on 08th September, 2022

CORAM:

**BACHU VENKAT BALRAM DAS, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant : A.G. Sathyanarayana, Advocate

ORDER

Per: SAMEER KAKAR, MEMBER (Technical)

This Application IA/IBC/920/CHE/2021, is filed under Section 33 (1) (a), 33 (2) & 34 (1) of IBC, 2016 by the Resolution Professional of the Corporate Debtor herein Viz., JKS Construction Private Limited seeking to liquidate the Corporate Debtor herein.

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2. The Corporate Debtor herein was admitted to the Corporate Insolvency Resolution Process vide this Tribunal order dated 11.03.2022 and the Applicant was appointed as the IRP. Further in the 1st CoC meeting held on 08.04.2022 the IRP was confirmed as the RP.

3. It was submitted by the Ld Counsel for the Applicant that in the 2nd COC meeting held on 04.05.2022 it was resolved to issue fresh EOI in Form G. Pursuant to the same the Applicant had published FORM G dated 20.05.2022 in "Financial Express" in English and in Tamil vernacular "Dinamani". Further, it is averred in para 6 of the Application that six responses were received in lieu of the publication but no concrete response was received for the EOI. The said copy of FORM G published is placed as "Annexure 2" of the Application typeset. The Form G was published for the 2nd time on 16.06.2022, however no resolution plan was received by the Resolution Professional.

4. The Ld. Counsel for the Applicant submitted that from the minutes of the 3rd COC meeting held on 14.06.2022 there are no assets in the Corporate Debtor and only pending receivables were due from the two arbitration proceedings. Subsequently, it was resolved to extend the timelines of EOI to submit a resolution plan till 30.06.2022.

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5. It is averred in para 8 of the Application that in the 4th COC meeting held on 21.07.2022 the COC unanimously resolved to liquidate the Corporate Debtor in accordance to Section 33 (2) of the IBC,2016 as no response was received for the both the FORM G published by the Applicant RP. The said 4th COC meeting is placed as "Annexure-6" of the Application typeset.

6. Further it can be seen from the Application that FORM H has been filed by the Applicant and the same is placed as "Annexure 8" of the Application typeset. The written consent evinced by the Applicant RP to act as the liquidator of the Corporate Debtor is placed as "Annexure 7" of the Application typeset.

7. Heard the submissions of the Learned Applicant Counsel. It can be seen from the minutes of 4th COC meeting dated 21.07.2022 that the COC has unanimously voted to place the Corporate Debtor for Liquidation.

8. Apropos the relevant Section 33 (2) of the IBC, 2016 is extracted hereunder:-

Section 33 (2)

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"Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating

Authority of the decision of the committee of creditors approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)."

9. It is also seen from the records that the Applicant herein has accorded the written consent, Form AA to act as the Liquidator of the Corporate Debtor and it can be seen from the IBBI website that the Applicant has valid AFA.

10. In view of unanimous resolution of CoC to place this Corporate Debtor in Liquidation, we are forced to Order Liquidation of the Corporate Debtor. In the said circumstances, **Mr. Raghu Babu Gunturu** with Registration No: *IBBI/IPA-002/IP-N00025/2016-2017/10053* (email id: raghu@ezresolve.in) is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions:-

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.

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b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section

33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or

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further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

- j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

11. Thus, IA/IBC/920/CHE/2022 stands **allowed** with the aforesaid directions.

- Sd -

SAMEER KAKAR
MEMBER (TECHNICAL)

- Sd -

BACHU VENKAT BALRAM DAS
MEMBER (JUDICIAL)