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Sl No. 782

IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCHI.A.No.484 of 2020 in  
C.P.(IB)No.320/BB/2019  
U/s. 33(2) of the IBC, 2016**Mr. Addanki Haresh**

Resolution Professional of

M/s. Right Engineers And Equipment India Pvt. Ltd.

R/Off: No-36/1, 2<sup>nd</sup> Floor, Munivenkatappa

Complex, Bellary Road, Ganganagar,

Bangalore – 560 032.

- Applicant/ RP

**Date of Order: 02<sup>nd</sup> December, 2020**

- Coram:**
1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
  2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant/RP : Mr. Addanki Haresh, RP

**ORDER*****Per: Ashutosh Chandra, Member (Technical)***

1. I.A.No.484 of 2020 in C.P.(IB)No.320/BB/2019 is filed by Mr. Addanki Haresh, Resolution Professional of M/s. Right Engineers And Equipment India Private Limited ('the Applicant/Resolution Professional') under Section 33(2) of the IBC, 2016, by inter alia seeking to pass an order liquidating the Corporate Debtor and appointing a liquidator to the Corporate Debtor under Section 33(2) of the IBC, 2016 and appoint Mr. Addanki Haresh, Insolvency Professional having IBBI Registration No. IBBI/IPA-001/IP-01064/2017-18/11757 as liquidator, the Corporate Debtor be liquidated as a going concern as per Regulation 39(c) of IBBI (CIRP) Regulations, 2016, etc.
2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

- (1) Initially, the Adjudicating Authority, Bengaluru Bench, admitted the petition of the Financial Creditor Sri M Visveswaraya Cooperative Bank Ltd under Section 7 of the I&B Code, 2016 for the initiation of CIRP in respect of the Corporate Debtor, Right engineers & Equipment Private Limited, through



its order dated October 29, 2019 and appointed the Applicant as the IRP. The certified copy of the Order was received on 19<sup>th</sup> November and IRP caused a public announcement in "Deccan Chronicle" (English Paper) and "Samyukta Karnataka" (Kannada paper) on 21<sup>st</sup> November 2019.

- (2) In the 1<sup>st</sup> meeting of CoC held on 12.12.2020, the applicant was appointed as Resolution Professional for carrying CIRP in respect of Corporate Debtor. In the 2<sup>nd</sup> meeting of CoC held on 31.12.2020 the RP appraised the appointment of Registered Valuers, Approval of Form G for Expression of Interest and Eligibility criteria for Resolution Applicants and Announcement for Expression of Interest in Form G in "Deccan Chronicle" and "Samyukta Karnataka" dated 06.01.2020 wherein the last date for submission of Resolution Plans was 28.02.2020 was published. In the 3<sup>rd</sup> meeting of CoC held on 06.02.2020 wherein the status of claims received and status of CIRP was discussed Evaluation Matrix was approved in the meeting. The Steps taken on the Forensic Audit were also discussed. In the 4<sup>th</sup> meeting of CoC held on 03.07.2020. The status of the CIRP and the status of claims received was discussed as regards the Resolution Plans, at the request of the Resolution Applicant viz., Tippers and Trailers India Pvt. Ltd., the last date for submission of Expression of Interests were extended to 15.07.2020. In the 5<sup>th</sup> meeting of the CoC held on 28.08.2020 the RP appraised the status of CIRP process to the members and the last date for submission of Expression of Interest was extended to 17.08.2020. In the 6<sup>th</sup> meeting of the CoC held on 29.09.2020 the RP informed the members that he filed an application under Section 12(2) and under Regulation 40(c) for extension of CIRP period and exclusion of Covid-19 period with the Adjudicating Authority. The CoC considered extension of the time for submission of Resolution Plan to 12.10.2020. In the 7<sup>th</sup> meeting of CoC held on 27.10.2020 and 02.11.2020 the status of claims received was discussed. The Resolution Plan submitted by Tippers and Trailers India Pvt. Ltd. was discussed during the meeting. The RP informed the Resolution Plan amount but it was felt by CoC that the Plan amount does not meet their requirements and advised the Resolution Applicant to improve the Plan and the meeting adjourned to 02.11.2020. Again on



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02.11.2020 the Resolution Applicant submitted the revised Resolution Plan. However, the CoC felt that even the revised Resolution Plan does not meet the expectations of the Financial Creditors, and hence the Plan would be rejected by the sanctioning authorities. However, the Resolution Applicant expressed his inability to further improve the Resolution Plan. Hence the Resolution Plan was put to vote after the meeting by way of e-voting and again the Resolution Plan was rejected by e-voting.

- (3) The 8<sup>th</sup> meeting of CoC was held on 09.11.2020 wherein the RP informed the members that the application filed by the RP under Section 12(2) of IBC and Regulation 40C of CIRP Regulation, for extension of CIRP period and exclusion of Covid-19 period are under consideration of Adjudicating Authority. According to the statement the CIRP expenses incurred by the Resolution Professional during the CIRP process amounting to Rs.50,09,570/- were noted and approved by the CoC. The CoC also noted that out of the above approved expenses, an amount of Rs.12,57,608/- was till outstanding. Further, the members reviewed the Forensic Audit Report, and the members advised the RP to file the required application with the Adjudicating Authority. The suspended Directors informed the CoC that certain transactions need to be clarified to the Forensic Auditor. The CoC advised the Forensic Auditor, who was present during the meeting, to discuss with the suspended Directors and finalise the Forensic Audit Report. The Resolution Professional informed the members, that since the Resolution Plan submitted by Trippers and Trailers India Pvt. Ltd was rejected by the CoC at the 7<sup>th</sup> meeting of CoC, the members have to decide on the Liquidation of the Corporate Debtor and propose the appointment of Liquidator. Accordingly the members discussed some agendas i.e. approval of CoC for filing for liquidation under Section 33 of IBC, recommending the appointment of Liquidator, etc., and Resolved as under :

**RESOLVED THAT** Committee of Creditors do hereby recommend for initiation of Liquidation process of Right Engineers & Equipment India Private Limited (the Company or the Corporate Debtor) in accordance with the provisions of



*[Handwritten signature]*

Section 33 of the Insolvency and Bankruptcy Code, 2016 and Regulations thereunder in view of no Resolution Plan is received or approved by the Committee of Creditors.

**RESOLVED FURTHER THAT** the Committee of Creditors recommend appointment of Mr. Addanki Haresh, Insolvency Professional having IBBI Registration No.IBBI/IPA-001/IP-P01064/2017-2018/11757 as Liquidator, who has given his consent to carry out the Liquidation process of the Company.

3. Mr. Addanki Haresh, learned Resolution Professional appeared and heard through **Video Conference**. We have carefully perused the pleadings of the Party and the extant provisions of the Code and the Rules made thereunder.
4. The Applicant has filed a copy of the Minutes of the 8<sup>th</sup> Meeting of the Committee of Creditors held on 09.11.2020. Since the Resolution Plan submitted by Tirppers and Trailers India Private Limited was rejected by the CoC at the 7<sup>th</sup> meeting of CoC, the members have decided on the Liquidation of the Corporate Debtor and proposed the appointment of Liquidator. Hence it is very unlikely to get a resolution plan for the revival of the business. Therefore, the members of the CoC have decided to Liquidate the Corporate Debtor. Accordingly, the CoC passed the resolution for liquidation, as mentioned supra.
5. It is seen from the minutes of the 7<sup>th</sup> meeting of the CoC held on 27.10.2020, the RP informed the members there are no fresh claims received from the last date of CoC meeting and present meeting. He further informed the members that the application filed under Section 12(2) of IBC, Code and 40C Regulation 22(1) of the IBBI Regulations, 2016 still pending. The RP informed the members that he has received a Resolution Plan dated 10.10.2020 from the Resolution Applicant in which a summary of the Resolution plan was submitted and various compliances of the Resolution Plan with the provisions of IBC. The Representative of the Resolution Applicant explained the members the basis on which they have valued the Company as a going concern, and also the value of the land, building and plan & machinery. In view of the problems faced by the Company, and since there were no operations in the Company, the Company needs further investment. Further the Representative the Visveswaraya Cooperative Bank, expressed that the amount offered to the Financial Creditors



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was very less compared to the value of the Company and advised the Resolution Applicant to revise and reconsider their plan. In the revised plan it is stated that the revision of plan again does not meet the expectations of the Bank and other Financial Creditors, since in their view the value of the Corporate Debtor was still high. Further, the Resolution Applicant expressed their inability to increase the Resolution Plan. Under these circumstances, as mentioned in the Petition, we are of the considered view that this is a fit case for liquidation.


6. The CoC has also passed a Resolution as proposed Mr. Addanki Haresh, as a Liquidator, for liquidating the Corporate Debtor. He has filed his written consent to act as Liquidator of the Corporate Debtor i.e., M/s. Right Engineers And Equipment India Private Limited dated 18.11.2020, u/s34 of the IBC, 2016, by inter alia declaring that he is eligible to be appointed as an independent Director on the Board of the Corporate Debtor under Section 149 of the Companies Act, 2013, where the Corporate Debtor is a Company; he is not a related party of the Corporate Debtor; he has not been an employee or proprietor or a partner; etc.; he undertook to disclose the existence of any pecuniary or personal relationship with the concerned Corporate Debtor or any of its stakeholders as soon as he became aware of it to the Board and the Adjudicating Authority; he is not a member of any Insolvency Professional Entity. Hence, he is provisionally eligible to be appointed as Liquidator.
7. In view of the facts and circumstances of the case, the Adjudicating Authority, by exercising its powers conferred under Section 33(1), 33(2) & 34(1) of the IBC, 2016, disposes of I.A.No.484 of 2020 in C.P.(IB)No.320/BB/2019 with following directions:
  - a) It is hereby ordered that M/s. Right Engineers And Equipment India Private Limited, Corporate Debtor be liquidated in the manner as laid down in Chapter III of Part II of Code, R/w IBBI(Liquidation process) Regulations, 2016.
  - b) Mr. Addanki Haresh is hereby appointed as a Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI. He is directed to follow the due process of law as per above Chapter and related



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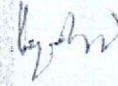
Regulations, and to issue public announcement immediately by stating that the Corporate Debtor is in Liquidation.

- c) The Registry is directed to communicate this order to the Registrar of Companies, Karnataka for information and necessary action and also to the Liquidator.
- d) The Liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder by the IBBI from time to time and is also directed to take expeditious steps to complete the liquidation process in the light of various orders.
- e) The Liquidator is further directed to make best efforts to revive the Corporate Debtor during Liquidation process, as a going concern.
- f) Post the case for report of Liquidator on **11.01.2020**.



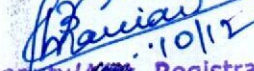
**ASHUTOSH CHANDRA  
MEMBER, TECHNICAL**

Amar

**RAJESWARA RAO VITTANALA  
MEMBER, JUDICIAL**

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

for  10/12  
Deputy/Registrar  
National Company Law Tribunal  
Bengaluru Bench  
Rajeshwari.M