

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO:II
SPECIAL BENCH(Video Conference)**

**CORAM: HON'BLE MADAN BHALCHANDRA GOSAVI – MEMBER JUDICIAL
HON'BLE VEERA BRAHMA RAO AREKAPUDI-MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 05.03.2021 AT 10:30 AM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.91,288,916,1195&1196/2020 in CP(IB) No.354/9/HDB/2019
NAME OF THE COMPANY	SRK Food Products Pvt Ltd
NAME OF THE PETITIONER(S)	Prisha Om Foods
NAME OF THE RESPONDENT(S)	SRK Food Products Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

IA No.288/2020

This IA is filed by RP for passing order of Liquidation of the Corporate Debtor since no plan is received during CIRP.

Heard. Reserved for orders.

IA No.916/2020

This IA is filed by one of the Operational Creditors making some grievance against one of the CoC members. Learned counsel seeks liberty to withdraw. Permission is granted. IA No.916/2020 is withdrawn and disposed of.

IA No.1195/2020

This IA is filed by Mr. Jai Prakash Chharia, one of the Financial Creditors against another member of CoC for modifying voting percentage in CoC. In fact, RP moved the application for passing an order of liquidation of the Corporate Debtor. Thus, it becomes infructuous and stands disposed of.

Contd..2..

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Sdl

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CP(IB) No.354/9/HDB/2019

IA No.1196/2020 is filed by one of the Operational Creditors for direction to the R2 (Karur Vysya Bank) not to sale any property. This Adjudicating Authority has no jurisdiction to direct the secured creditors. We have reserved the Application for passing order of liquidation of the Corporate Debtor. Keeping all contentions this application stands disposed of.

IA No.91/2020 is filed by RP against one of the Operational Creditors of the Corporate Debtor, who have received sum of Rs.20,06,960/- under compromise & arrangement which was later on rejected by the CoC.

Affidavit in reply is filed.

Matter stands adjourned to 15.4.2021.



MEMBER TECHNICAL



MEMBER JUDICIAL

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

**IA No.288/2020
In
CP(IB)No.354/9/HDB/2019**

In the matter of: SRK FOOD PRODUCTS LIMITED

Mr. Shaik Gouse
H.No.17-1-391/T/250,
Saraswathi Nagar, Saidabad, Hyderabad
Telangana – 500059.
(Resolution Professional of SRK Food Products Limited)

...Applicant

Date of Order: 05.03.2021

**Coram: Madan B. Gosavi, Member Judicial.
Shri Veera Brahma Rao Arekapudi, Member Technical**

Parties/Counsel(s) Presents:

For the Applicant: Mr. Shaik Gouse, RP

[Per Bench]

ORDER

1. The present Application bearing IA No. 288/2020 in CP(IB)No.354/9/HDB/2019 is filed by Resolution Professional inter-alia praying to approve the liquidation of the Corporate Debtor in terms of section 33(2) of the I&B Code, 2016 and to appoint Liquidator under Section 34 of I&B Code, 2016.
2. Brief facts as stated by the counsel for the Applicant are as follows:-
 - a. That M/s. Prisha Om Foods (Operational Creditor) filed CP(IB)No.354/9/HDB/2019 against M/s. SRK Food Products Private Limited (Corporate Debtor) under Section 9 of the IB Code and vide order dated 17.09.2019, this Adjudicating Authority admitted the said





Application and Mr. Kammula Prabhakar was appointed as the Interim Resolution Professional.

- b. That on 28.09.2019, the IRP has given a public announcement, calling for claims from all creditors on or before 09.10.2018. The IRP had received Five Claims from the Financial Creditors claiming the amount of Rs.5,48,45,765/- and accordingly RP constituted the CoC.
- c. That on 10.10.2019, IRP has filed an application bearing IA No.864/2019 U/s.12A for withdrawal of the CIRP stating that the Corporate Debtor and Operational Creditor have arrived at a settlement.
- d. However, in the 2nd CoC meeting on 29.11.2019, the CoC has unanimously resolved to continue the CIRP against the Corporate Debtor and authorized the IRP to file the memo for withdrawing IA No.864/2019.
- e. That in the 2nd CoC meeting it was also resolved to replace IRP with Mr. Shaik Gouse, Insolvency Professional as Resolution Professional. That vide order dated 09.12.2019, this Adjudicating Authority allowed the withdrawal of IA No.864/2019.
- f. In the 4th CoC meeting held on 02.03.2020, the committee resolved to liquidate the company and one of the members of the CoC requested to pass the following resolution through e-voting:-

“RESOLVED THAT pursuant to Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, and the regulations made thereunder, (including any statutory modification or re-enactment thereof for the time being in force) the consent of the committee of creditors is granted for liquidating the corporate Debtor.”

“RESOLVED FURTHER the Resolution Professional, Shaik Gouse, be and is hereby appointed as Liquidator of the Corporate Debtor on approval of Adjudicating Authority at a monthly remuneration of Rs.2,00,000 exclusive of applicable taxes, the same

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remuneration payable under CIRP and commission on sale of assets under liquidation as per the provisions of IBC Regulations and Code”

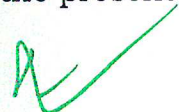
“RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to make an application and to take such steps as may be necessary for obtaining the necessary liquidation orders from the Hon’ble NCLT, Hyderabad Bench and to sign and execute all applications, documents and writings that may be required, and generally to be all acts, deeds and things that may be necessary, proper, expedient or incidental for the purpose of giving effects to the aforesaid Resolution.”

g. That RP has put the aforesaid Resolution through e-voting for the members and CoC and CoC unanimously approved the resolution with 100% voting.

3. Heard the RP and perused the records.

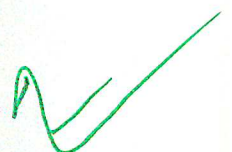
4. In view of the facts and circumstances as recorded by RP in IA No. 288 of 2020 filed in CP(IB) No. 354/9/HDB/2019, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016, this Adjudicating Authority deems it proper to allow the Application bearing IA No. 288/2020 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. SRK Food Products 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. Shaik Gouse, who has given his consent dated 10.03.2020 to act as Liquidator in the present



case. He has also filed his Authorisation for Assignment (AoA) dated 06.12.2019. 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. Shaik Gouse. 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 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 Company Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in such a proportion to the value of the Liquidation estate assets as specified by the Board under Regulation 4(3) of IBBI (Liquidation Process) Regulations, 2016. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation estate.
- (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. Shaik Gouse 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, Application bearing IA No. 288/2020 stands disposed off.

VEERA BRAHMA RAO AREKAPUDI
MEMBER TECHNICAL

MADAN B. GOSAVI
MEMBER JUDICIAL