

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO:II

SPECIAL BENCH(Video Conference)

CORAM: HON'BLE MADAN BHALCHANDRA GOSAVI – MEMBER JUDICIAL
HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 26.08.2021 AT 12:30 PM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/224/2021 in CP(IB) No.176/9/HDB/2019
NAME OF THE COMPANY	Sevwel Electronics Pvt Ltd
NAME OF THE PETITIONER(S)	Deccan Switchgears
NAME OF THE RESPONDENT(S)	Sevwel Electronics 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 224/2021 in CP 176/9/HDB/2019 is listed for orders. Orders pronounced vide separate Order.


MEMBER (T)

Syamala


MEMBER (J)

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

**IA No.224/2021
In
CP(IB)No.176/9/HDB/2019**

In the matter of: SERWEL ELECTRONICS PRIVATE LIMITED

Mr. Pavan Kankani,
RP-Serwel Electronics Private Limited
At #302, 3rd Floor, 3-6-140/A,
City Centre, Above Bata Showroom,
Himayat Nagar Main road,
Hyderabad-500029.

...Applicant/Resolution Professional

Date of Order: 26.08.2021

**Coram: Shri Madan B. Gosavi, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical**

Parties/Counsel(s) Presents:

For the Respondent: Mr. Pavan Kankani, RP

[Per Bench]

ORDER

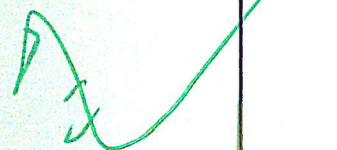
1. The present Application bearing IA No. 224/2021 in CP(IB)No.176/09/HDB/2019 is filed by Resolution Professional inter-alia praying to pass the order of liquidation of the Corporate Debtor U/s. 33(1)(a) & 34(1) of the I&B Code, 2016 and U/s.60(5) of the I&B Code, 2016 read with Rule 11,13 & 32 of the National Company Law Tribunal (Adjudicating Authority) Rules, 2016 and to appoint Mr. Pavan Kankani, RP as Liquidator U/s.34(1) of the I&B Code, 2016.
2. Brief facts as stated by the counsel for the Applicant are as follows:-
 - a. That M/s. Deccan Switchgears (Operational Creditor) filed CP(IB)No.176/09/HDB/2019 against M/s. Serwel Electronics Private Limited (Corporate Debtor) under Section 9 of the IB Code and vide order dated 07.01.2020, this Adjudicating Authority admitted the said Application and Mr. Pavan Kankani was appointed as the Interim

Resolution Professional. In the 1st CoC meeting, held on 06.02.2020, the Applicant herein was confirmed as Resolution Professional.

- b. That the Applicant Resolution Professional had moved an Application bearing IA No. 181 of 2021 under Section 60(5) of IBC, 2016 seeking directions against the CoC members for taking decisions for smooth completion of CIRP.
- c. That said Application was listed for hearing on 16.04.2021. On the said date of hearing, this Adjudicating Authority after hearing the submissions made by RP and having come to know that the statutory period for completion of CIRP of 330 days was already over, directed the applicant to file an Application before this Adjudicating Authority for Liquidation of the company, since no Resolution Plan was received by the Resolution Professional.
- d. That the Applicant moved the present application under section 33(1)(a) of Insolvency and Bankruptcy Code, 2016 praying this Adjudicating Authority for initiation of Liquidation process with respect to the corporate debtor company.
- e. The relevant provision of Section 33(1)(a) of IBC, 2016 is as under:
 - 1) *Where the Adjudicating Authority –*
 - a) *Before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30;*

f. Reiterating above, RP prayed to allow the Application as prayed for.

3. Heard the RP and perused the records.
4. In view of the facts and circumstances as recorded by RP in IA No. 224 of 2021 filed in CP(IB) No.176/09/HDB/2019, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016, thus this Adjudicating Authority deems it proper to allow the Application bearing IA No. 224/2021 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. Serwel Electronics 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. Pavan Kankani, as liquidator of the Corporate Debtor, who has filed his written consent to act as Liquidator along with valid Authorization for Assignment. 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. Pavan Kankani. 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 Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in accordance with Regulation 4(2) 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. Pavan Kankani 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. 224/2021 stands disposed off.

Dr. BINOD KUMAR SINHA
MEMBER TECHNICAL

MADAN B. GOSAVI
MEMBER JUDICIAL