SL. No. 103

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

SPECIAL BENCH (Video Conference)

CORAM: HON'BLE DR.VENKATA RAMAKRISHNA BADARINATH NANDULA–MEMBER JUDICIAL
CORAM: HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 03.12.2021 AT 12:00 PM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.42/7/HDB/2020
NAME OF THE COMPANY	Icon Commodities Pvt Ltd & another
NAME OF THE PETITIONER(S)	BRS Enterprises & Trading
NAME OF THE RESPONDENT(S)	Icon Commodities Pvt Ltd & another
UNDER SECTION	7 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 431/2021 in CP (IB) No.42/7/HDB/2020 is listed for orders today. Liquidation allowed. Orders pronounced vide separate Orders.

MEMBER (T) **MEMBER(J)**

Syamala

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

MA No.431/2021
In
CP(IB)No.42/7/HDB/2020

In the matter of: ICON COMMODITIES PRIVATE LIMITED

M/s. Icon Commodities Private Limited,
Registered Office: Shop No.2,
Besides Newzen Hair Oil, Police Station Road,
IDA Bollaram, Jinnaram Road (MD),
Bollaram – 520325.
(Rep by its Liquidator, Ms. Mummaneni Vazra Laxmi)

...**Applicant**

Date of Order: 03.12.2021

Coram: Dr.Venkata Ramakrishna Badarinath Nandula,Member Judicial
Dr. Binod Kumar Sinha, Member Technical

Parties/Counsel(s) Presents:

For the Applicant: Ms. Mummaneni Vazra Laxmi, RP

[Per Bench]

ORDER

1. The present Application bearing IA No. 431/2021 in CP(IB)No.42/7/HDB/2020 is filed under Section 33(2), R/w Section 34 of Insolvency And Bankruptcy Code 2016 by Liquidator, inter-alia, seeking the following reliefs:

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a) To liquidate the Corporate Debtor M/s Icon Commodities Private Limited under Section 33(2) R/w Section 34 of Insolvency and Bankruptcy Code, 2016.

b) To appoint Mummaneni Vazra Laxmi with IBBI Registration No. IBBI/IPA-001/IP-P00919/2017-2018/11526, Contact No. 9848448727, email id: emailtolak@gmail.com as the Liquidator of the Corporate Debtor to administer the Liquidation Process of the Corporate Debtor at the fee approved by COC members.

2. Brief facts as stated by the counsel for the Applicant are as follows:-

a. That the Corporate Insolvency Resolution Process has commenced against the Corporate Debtor vide this Adjudicating Authority's order dated 25-03-2021 in CP (IB) No.42/7/HDB/2020 and Sri Vamsi Kambhammettu was appointed as the Interim Resolution Professional (IRP).

b. That IRP conducted the first CoC meeting on 24.04.2021 and during the said meeting the sole member of CoC decided to appoint Mrs. Mummaneni Vazra Laxmi as Resolution Professional with 100% voting.

c. That the IRP filed IA No.228/2021 for replacement of IRP with present RP and this Adjudicating Authority vide order dated 13.05.2021, appointed Applicant herein as the Resolution Professional of the Corporate Debtor.

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d. That the Resolution Professional conducted 2nd meeting of Committee of Creditors (CoC) on 21.07.2021 and in that meeting after looking into the Information Memorandum, the sole CoC member decided to Liquidate the Corporate Debtor as there are neither any immovable Assets nor any Plant and Machinery available with the Corporate Debtor and the possibility of Debtors recoverability generally is very low even to cover the IRP Fee, Public Announcement Expenses, Valuers Fee and other expenses etc. Thus, the decision to Liquidate the Corporate Debtor was approved with 100% voting.

e. The deliberations and resolution of the CoC in the 2nd CoC meeting are extracted below:

"The COC member again informed to the chairman of the meeting that on review of the details of the IM, no immovable Assets or even no Plant and Machineries available. The possibility of Debtors recoverability generally is very low even to cover the IRP Fee, Public Announcement Expenses, Valuers Fee and other expenses etc., Hence they are not approving for these agenda Item and informed that as per other Agenda item, they proposed for Liquidation of the Corporate Debtor and they mentioned that their decision is in accordance with Sec 33(2), Explanation of THE INSOLVENCY AND BANKRUPTCY CODE, 2016".

"Resolved that pursuant to the provisions of Sec 33(2), and Explanation provided thereunder of THE INSOLVENCY AND BANKRUPTCY CODE,

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2016 to reduce further cost, to Liquidate the Corporate Debtor and further resolved that the RP shall file necessary application or IA with Hon'ble NCLT, Hyderabad to liquidate the Corporate Debtor."

f. That in the same meeting, the CoC with 100% voting proposed to appoint Mrs. Mummaneni Vazra Laxmi/Applicant as Liquidator for the Corporate Debtor.

g. That CoC in its 2nd meeting has also passed necessary resolutions under Regulations 39B, 39C & 39D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 with 100% voting share.

3. Heard the RP and perused the record.
4. During the hearing, this Adjudicating Authority raised a query in relation to the claim of DBS Bank to the tune of Rs. 40,72,09,707.99/- being treated as Operational Debt. In relation to the same, RP filed a memo dated 10.11.2021 on 11.11.2021, stating that the Corporate Debtor purchased certain commodities from Intra Asia Trading Pte Ltd, Singapore and the said Intra Asia Trading Pte Ltd discounted these Bills of Exchange with DBS Bank Limited, Singapore. That the DBS Bank has not disbursed any money to Corporate Debtor and has only discounted the bills of exchange and thus, by stepping into the shoes of an Operational Creditor, DBS Bank limited submitted its claim in Form B as an operational creditor. The necessary details and Copy of Form B have also been filed and placed on record and are found in order.
5. In view of the facts and circumstances as recorded by Liquidator in IA No. 431 of 2021 filed in CP(IB) No. 42/7/HDB/2020, since this Adjudicating Authority did not receive any Resolution Plan under Sub-

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Section (6) of Section 30 of the I&B Code, 2016, this Adjudicating Authority deems it proper to allow the Application bearing IA No. 431/2021 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. Icon Commodities 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 Ms. Mummaneni Vazra Laxmi, as proposed by CoC. She is directed to file her consent to act as Liquidator in the present case along with valid Authorisation for Assignment (AoA) within 7 days from date of this order. She 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

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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., Ms. Mummaneni Vazra Laxmi. 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 her 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 she is unable to sell the Corporate Debtor or its business within 90 days from

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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., Ms. Mummaneni Vazra Laxmi for information and compliance.

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

6. Accordingly, Application bearing IA No. 431/2021 stands disposed off.

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Dr. Binod Kumar Sinha
Member Technical

Dr.Venkata Ramakrishna Badarinath Nandula
Member Judicial

Santi/SKRathi