

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH  
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL  
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 17.07.2023 AT 11:00 A.M.**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)/27/7/AMR/2020	Main Case	7 of IBC	State Bank of India Vs Prathyusha Resources & Infra pvt Ltd
	IA(IBC)/278/2023	U/Reg. 44(2) of IBBI (Liquidation Process) Reg's, 2016	Mr. K, Sivalingam, Liquidator of M/s. Prathyusha Resources & Infra Private Limited.

**ORDER**

**IA(IBC)/278/2023:**

Mr.M.Sridhar, Ld. Counsel for the Applicant present. Orders pronounced.  
IA(IBC)/278/2023 is allowed, vide separate orders.

Sd/-  
**JUSTICE TELAPROLU RAJANI  
MEMBER JUDICIAL**

*RSN*

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

**IA(IBC)/278/2023  
In  
CP (IB)/27/7/AMR/2020**

**Under Section 44(2) of Insolvency and Bankruptcy Board of India  
(Liquidation Process) Regulations, 2016**

**AND**

**In the matter of  
M/s. PRATHYUSHA RESOURCES & INFRA PRIVATE LIMITED**

**Between:**

**Mr. K. Sivalingam,**  
Liquidator For M/s Prathyusha Resources & Infra Private Limited  
IBBI Registration Number: IBBI/IPA-001/IP-P01597-19/12430  
R/o. at Flat No. 1603, Tulive Horizon Residences,  
Arunachalam Road, Saligramam,  
Chennai-600 093

... Applicant/Liquidator

**Date of Pronouncement of Orders: 17.07.2023**

**CORAM:**

**Justice Telaprolu Rajani, Member Judicial**

**Appearance:**

For Applicant : Mr. M.Sridhar, Advocate

**ORDER**

**Per: Justice Telaprolu Rajani, Member Judicial**

1. This is an application filed under Section 44(2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 by the Applicant seeking extension of Liquidation process by 180 days from 04.07.2023 to 31.12.2023.
2. The facts briefly, as mentioned in the Application, are as follows:
  - a) State Bank of India (FC) of the CD filed an application under Section 7 of IBC, which was admitted by this Tribunal, vide order 03.11.2021, admitting the CD into Corporate Insolvency Resolution Process (CIRP). The Applicant was appointed as Insolvency Resolution Professional (IRP) and subsequently, was confirmed as the Resolution Professional (“RP”) by the Committee of Creditors (“COC”) in its first meeting on 03.12.2021. The Applicant called for Expression of Interest (EoI) from Prospective Resolution Applicants (PRAs), but there was no response to the EoI, hence, in the 5<sup>th</sup> CoC meeting held on 03.03.2022, the CoC resolved CD in to liquidation and in the 6<sup>th</sup> CoC meeting, the CoC decided the modalities and directed the applicant to file liquidation application. Hence, the Applicant filed an application seeking liquidation and the same was allowed by this Hon’ble Tribunal vide its Order dated 04.07.2022, and appointed the applicant herein as the Liquidator. As such, the

time period for completion of liquidation in terms of Regulation 44(1) is on 04.07.2023.

- b) The Liquidator had published the public announcement on 06.07.2022 and prepared the list of stakeholders after receiving and collating the claims from the concerned creditors of the CD. One of the financial creditors, Indian Bank, had exercised its security rights under S.52(1)(b) of the Code and the said properties have been excluded from the liquidation estate, subject to the provisions of S. 52 of the Code. Further, the said financial creditor has been excluded from the list of stakeholders as per the 1<sup>st</sup> proviso to Reg. 31A(2) of the regulations..
  
- c) For selling the CD as a going concern, the Applicant published a sale notice dated 16.09.2022 and the auction was tentatively scheduled on 29.09.2022 and 30.09.2022. Thereafter, under instructions of SCC, and in view of the IBBI (Liquidation Process) (Second Amendment) Regulations, 2022 notified on 16.09.2022, as abundant caution, the Applicant issued a Sale Notice dated 30.09.2022 wherein auction dates were proposed as 28.10.2022 and 29.10.2022. The detailed EoI dated 16.09.2022 and 30.09.2022 clearly stated that certain land parcels charged exclusively with Indian Bank, which had enforced its security interest and certain actionable claims arising out of dispute with Orissa Steel Expressway Private Limited (“OSEPL”), will not be included as part of liquidation estate for Sale of CD on going concern and will be dealt separately.

- d) Only one prospective bidder, namely M/s. PRISM Ventures LLP, submitted its EoI to participate in the auction process to take over the CD as a going concern. Hence, the e-auction portal was not activated by the Liquidator considering that there would be only a single participant. Accordingly, the sole bidder bid for the CD as a going concern at INR 3 Crores and the same was confirmed by the SCC, being equal to the reserve price and confirmed the issuance of LoI dated 24.11.2022 to the successful bidder in its Fourth Meeting held on 24.11.2022 and that the successful bidder paid the entire consideration of INR 3 Crores within 30 days in terms of the notice of the sale and the LoI dated 24.11.2022 upon which the Certificate of Sale dated 23.12.2022 was issued to the successful bidder. As such, the successful bidder was handed over the assets of the CD sold as a going concern, except assets not forming part of the liquidation estate and certain actionable claims arising out of dispute with OSEPL.
- e) In the SCC meeting was held on 24.11.2022, the SCC advised that certain actionable claims against OSEPL be treated as NRRA of the CD and be auctioned in accordance with Regulation 37A of the Liquidation Regulations by way of auction as per Schedule I to the Liquidation Regulations. Pursuant to the instructions of the Members of SCC read with provisions of Regulation 37A of the Liquidation Regulations, the Liquidator issued public notices by way of advertisement on 07.12.2022, 06.01.2023, 15.02.2023 & 06.03.2023, published in Business

Standard (All India Edition), Prajashakti (Visakhapatnam) and Makkal Kural (Chennai) inviting EoI from prospective bidders to participate in the electronic auction (E-auction) process for transfer/assignment of proposed arbitration claim against OSEPL by the CD (“**Original NRRRA**”). In accordance with the instructions of the SCC, the aforesaid auctions stood cancelled for want of value maximization for stakeholders.

- f) In the 9<sup>th</sup> SCC meeting held on 24.04.2023, the Members of the SCC resolved to start the process afresh for transfer/ assignment of proposed arbitration claim against OSEPL by the CD, including the avoidance application filed vide [IA (IBC) 388/2022 in CP (IB) No.27/7/AMR/2020] before Hon’ble NCLT, Amravati Bench, by inviting plans/offers from potential bidders instead of conducting E-auction in accordance with Schedule I of the Liquidation Regulations.
- g) In the 11<sup>th</sup> SCC meeting held on 13.06.2023, the Applicant tabled the draft “Process Memorandum Cum Invitation to Submit Expression of Interest for Assignment/ Transfer Of “Not Readily Realizable Asset” before the SCC, wherein the SCC deliberated on the commercial parameters to be incorporated and requested for time to revert on the Process Memorandum. In the interim, the Applicant had also taken steps to file AP/863/2022 and AP/370/2023 before the Hon’ble Calcutta High Court in order to keep the possibility of realization from the OSEPL claim alive until the same was assigned.

- h) During the auction held on 03.02.2023 and 04.02.2023, only one bidder participated with a bid value of Rs. 10 lakhs. The same was brought to the attention of the SCC, which in its Seventh Meeting held on 10.02.2023 deemed the same inadequate, and advised the Applicant to re-issue the Sale Notice for transfer/assignment of NRRA, with the date of the third auction tentatively scheduled on 13.03.2023.
  
- i) 8<sup>th</sup> SCC Meeting was held on 04.03.2023, wherein the SCC, considering the fact that certain interested parties had sought an extension of time for submission of EoI, advised the Applicant to extend the period for submission of EoI by 10 days, and to reduce the net-worth criteria to Rs. 50 lakhs from Rs. 1 Crore. The Liquidator informed the SCC that selective extension to only some interested parties would prejudice the interest of other potentially interested parties and it would be preferable to approve a 4<sup>th</sup> Auction, considering the changes in the eligibility criteria of net worth and the same was approved with the 4<sup>th</sup> Auction scheduled on 03.04.2023.
  
- j) A Sale Notice was issued on 06.03.2023 and EoI was received from 4 prospective bidders, of which only three deposited the stipulated EMD. During the auction held on 03.04.2023, only one bidder had submitted a bid at Rs.50 lakhs. The Ninth meeting of the SCC was held on 06.04.2023 wherein it was informed to the members of the SCC that the LoI have to be issued to the bidder

within 3 days from the close of the auction. The Applicant sought the views of the SCC on the same. The SCC was of the view that the bid received was too low. The Applicant informed the SCC that the 3 previous auctions had already been cancelled and that there was a lack of participation from the bidders for the NRRAs and that another cancellation may affect future participation from the bidders. The members of the SCC requested for the meeting to be adjourned in order to obtain internal approvals and the adjourned meeting was held on 26.04.2023. The SCC advised that as the bid amount was low, the 4<sup>th</sup> auction be cancelled and that a fresh auction be called for. The SCC further suggested that the avoidance applications [IA (IBC) 388/2022 in CP (IB) No. 27/7/AMR/2020] pending adjudication before the Adjudicating Authority shall also be treated as NRRAs of the CD along with the actionable claim against OSEPL which is already classified as NRRAs. The SCC further advised that a comprehensive fresh auction shall be reconducted for both the NRRAs, calling upon plans from prospective bidders that would provide a mechanism for pursuing the matters along with the distribution of realization from such proceeds.

- k) The Applicant in consonance with the views of the SCC, prepared a draft Process Memorandum cum Invitation to submit EoI for Assignment/Transfer of NRRAs and placed the same before the SCC in the 10<sup>th</sup> SCC meeting. The members of the SCC sought time to review the same internally and passed a

resolution approving the continuation of liquidation process for a further period of 180 days from 04.07.2023. Hence, this Application.

3. Heard the counsel for the Applicant. In view of the facts stated in the Application, this Tribunal finds valid reasons for extension of the Liquidation period from 04.07.2023 to 31.12.2023. The Application is accordingly allowed.

Accordingly, IA(IBC)/278/2023 in CP (IB)/27/7/AMR/2020 is disposed of.

*Sd/- dated 17/7/2023*  
**JUSTICE TELAPROLU RAJANI**  
**MEMBER JUDICIAL**

*Swamy Naidu*