

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
20-03-2023 AT 10:30 AM**

IA(IBC) 129/2021 & IA (IBC) 281/2023 in CP(IB) No.13/7/HDB/2020
u/s. 7 of IBC, 2016

IN THE MATTER OF:

State Bank of India

...Financial Creditor

VS

Simhapuri Energy Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA.No.281/2023

Order pronounced. Recorded vide separate sheets. In the result, liquidation proceedings against Corporate Debtor is closed from the date of this order and the Liquidator stands relieved subject to the observations made in this order. Accordingly IA.No.281/2023 is disposed of.

IA.No.129/2021

List this matter on 19.04.2023. Mr.VVSN Raju present and states that in the light of the orders in IA.No.281/2023 the liquidator stands discharged. Therefore the SBI on behalf of the Committee of stakeholders will pursue this application and he has been instructed to file Vakalat for SBI. Permitted to file Vakalat as per procedure. List the matter on 19.04.2023.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD-1 BENCH

I.A. No. 281 / 2023

IN

C.P. (IB) No. 13/7/HDB/2020

Application under Regulation 45(3) of IBBI (Liquidation Process)
Regulations, 2016

In the matter of M/s Simhapuri Energy Limited

IN THE MATTER OF:

DR. G.V. NARASIMHA RAO

Liquidator for Simhapuri Energy Limited

Having office at:

Flat 1201, Block B, Lansum Etania,

Puppalanguda, Hyderabad – 500075

...Applicant/
Liquidator

Date of order: 20.03.2023

Coram:

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member
Judicial

Shri Charan Singh, Hon'ble Member Technical

Appearance:

For Applicant: Ms Shraddha Gupta, Advocate

**PER: BENCH
ORDER**

1. The Applicant who is the Liquidator for Simhapuri Energy Limited (hereinafter referred as “**SEL**” or “**Corporate Debtor**”), has filed this Application *seeking closure of the liquidation process of the Corporate Debtor* on account of successful sale of the Corporate Debtor as a going concern.
2. To put precisely, this Tribunal had admitted the petition filed under Section 7 of IBC vide order dated 26.06.2020 filed by the State Bank of India, a financial creditor and ordered commencement of CIRP of the Corporate Debtor. Mr. Anish Niranjana Nanavaty was appointed as an Interim Resolution Professional and later was confirmed as the Resolution Professional (“**RP**”) for the Corporate Debtor.
3. Since the Resolution Professional did not receive any viable plan for the Corporate Debtor, this Tribunal ordered liquidation of the Corporate *vide* order dated 06.10.2021 passed in I.A. 427 of 2021, filed by the RP and Dr. G.V. Narasimha Rao, the Respondent herein was appointed as the liquidator for the Corporate Debtor (“**Liquidator**” / “**Respondent**”).

4. The Liquidator made public announcement on 02.03.2022 ("**Public Announcement**") and the Process Memorandum dated 01.03.2022, as amended from time to time ("**Process Memorandum**"), inviting bids through e-auction for sale of the Corporate Debtor as a going concern under Parcel 1 and sale of assets of the Corporate Debtor under Parcel 2, in accordance with the provisions of Insolvency and Bankruptcy Code, 2016 ("**I&B Code**") and IBBI (Liquidation Process) Regulations, 2016 ("**Liquidation Regulations**").
5. In response to the Public Announcement and Process Memorandum, Jindal Power Limited (JPL) submitted its bid in the e-auction process under Parcel 1 for purchase of the Corporate Debtor as a whole on a going concern basis with a financial proposal of INR 335 crores (Indian Rupees Three Hundred Thirty Five Crores). JPL was declared as the Successful Bidder on 06.03.2022, pursuant to which the Applicant/Liquidator issued the LOI in favour of JPL on 07.03.2022. The same was accepted and counter-signed by JPL on 08.03.2022. In terms of the LOI, as well as the Process Memorandum, JPL was required to pay the entire sale consideration within 30 days from

the issuance of the LOI and in the event the payment is delayed beyond the said period then a simple interest at the rate of 12% p.a. is payable on the balance sale consideration.

6. It is further averred that while JPL was in the process of depositing the balance sale consideration in terms of the LOI and as required under the Process Memorandum, the JPL/Successful bidder gained knowledge about an interim stay granted by the Ld. Single Judge of High Court of Telangana on the WP No. 13519/2022 which was filed by one of the shareholders i.e. Madhucon Infra Limited, on the auction process of the Corporate Debtor, vide order dated 01.04.2022
7. Aggrieved by the Hon'ble High Court of Telangana order dated 01.04.2022, the Applicant challenged the order by way of a Writ Appeal No. 290/2022 and Hon'ble High Court of Telangana vide order dated 20.04.2022 set aside the order dated 01.04.2022 passed by the Ld. Single Judge and ordered continuation of the auction process while remanding the matter back to Ld. Single Judge to consider the writ petition on merits.
8. Hence, the Applicant vide letter dated 23.04.2022 called upon JPL to make payment of the balance consideration on or before

25.04.2022 (without any interest) or on or before 24.06.2022 (with interest) as per the Code, Liquidation Regulations and the process document, for acquisition of the Corporate Debtor as a going concern.

9. In order to kick-start the business of the Corporate Debtor by the Successful bidder, this Tribunal on an Application bearing IA No. 540/2022 filed by the Successful bidder, granted certain reliefs, concessions, exemptions etc, vide order dated 21.06.2022, pursuant to which the Successful Resolution Applicant (JSL) deposited the balance consideration of Rs. 318 crores along with interest of Rs. 6.27 crores on 24.06.2022. The Applicant had completed the handed over of the business, assets and operations of the Corporate Debtor to JPL and in turn JPL requested the Applicant to close the liquidation process. Subsequently, the Applicant issued the sale certificate on 29.06.2022

10. It is further averred that pursuant to the terms and conditions agreed between the Liquidator and JPL as a part of the sale certificate dated 29.06.2022, the proceedings before the Ld. Single Judge in WP 13519 /2022 along with other pending

litigation i.e IA No. 129/2021 pending before this Tribunal would be continued by the Financial Creditors of the Corporate Debtor.

- 11.** It is submitted that since the entire sale proceeds having concluded with the distribution of the funds amongst the creditors of the Corporate Debtor, the Liquidator is seeking closure of the liquidation proceedings against the Corporate Debtor.
12. We heard Ms. Shradda Gupta and Shri Alay Razvi, Ld. Counsels for Liquidator and perused the application filed by the Liquidator. He has filed necessary documents along with the application. The Final report in Form-H is filed as Annexure A-20. This IA is filed under Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 praying the Adjudicating Authority to order for closure of the liquidation process of the Corporate Debtor Company as liquidation process is complete. The said provision reads as under:-

“Regulation 45 (3) (a): Final report prior to dissolution.

(3) The liquidator shall submit an application along with the final report and the compliance certificate in form-H to the Adjudicating Authority for –

(a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or

13. The Ld. Counsel for the Liquidator would contend, pursuant to public announcement for e-auction M/s. Jindal Power Limited, participated in the e-auction held on 04.03.2022 and was declared as successful bidder. On-going through the facts aforementioned and the material placed along with the Application, it is evident that the assets of Corporate Debtor were sold to Jindal Power Limited for Rs. 341.28 Crores. Copy of the Final Report cum Asset Sale Report evidencing completion of the liquidation process is annexed and marked as Annexure A-19. It is seen from Form-H that the amount of Rs. 347,95,66,590/- was distributed as per Section 53(1) of I&B Code, 2016. The details of distribution of the realized amount is detailed at Page 175 of the Application (annexure-20). The Liquidation Account of the Corporate Debtor bearing No. 1626201001958 maintained by the Liquidator with Canara Bank, Kundanbagh Branch, Begumpet, Hyderabad has been

closed on 30.01.2023, subsequent to completion of the distribution of sale proceeds. Further upon perusal of the final report, it is evident that the Liquidator has sold the Corporate Debtor as a going concern as such it is a fit case for closure of Liquidation process.

14. As a sequel to the above, we hereby order closure of the Liquidation proceedings against the Corporate Debtor viz. SIMHAPURI ENERGY LIMITED from the date of this Order, in terms of Regulation 45 (3) of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Consequently, the Liquidator stands relieved.
15. The Liquidator is directed to send the copy of this Order within 7 days from the date of pronouncement to the Registrar of Companies, Hyderabad and the concerned authorities and hand over all the books and files of the Corporate Debtor M/s SIMHAPURI ENERGY LIMITED which are in possession of the Liquidator to the successful bidder i.e. Jindal Power Limited.
16. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad and concerned authorities for updating the master data.

17. A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.
18. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
19. In terms of the above, IA No. 281 of 2023 stands disposed of accordingly.

SD/-

SD/-

CHARAN SINGH
MEMBER TECHNICAL

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA
MEMBER JUDICIAL

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