

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI K ANANTHA PADMNABHA SWAMY- MEMBER JUDICIAL

PRESENT: HON'BLE SHRI BINOD KUMAR SINHA -MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 06.11.2019 AT 10.30 AM

TRANSFER PETITION NO.	TP(HCW) No. 64/HDB/2017
COMPANY PETITION/APPLICATION NO.	IA No. 651 /2019 in CP NO. 398/2016
NAME OF THE COMPANY	Turbo Mechnery Engineering Industries Limited
NAME OF THE PETITIONER(S)	Indian Renewable Energy Development Agency Limited (Petitioner)
NAME OF THE RESPONDENT(S)	Turbo Mechnery Engineering Industries Limited (Respondents)
UNDER SECTION	433 of 1956/7 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

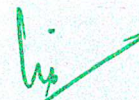
IA No.651/2019

Order pronounced in open court. IA allowed vide separate order. Registry is directed to address the letter requesting IBBI for suggesting the name of the liquidator to be appointed in view of the order passed and disposed.



MEMBER TECHNICAL

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MEMBER JUDICIAL

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

**IA No.651/2019
In
CP No.398/2016
TP(HCW)No. 64/HDB/2017**

In the matter of:-

Turbo Machinery engineering Industries Limited
Plot No.16 (11-20-18) Shop cum Flat, Huda Complex,
Kothapet, Hyderabad – 500035.
(Rep. by Mr.TSN Raja, Resolution Professional)

...Applicant/Corporate Debtor

AND

SBI and Others

...Financial Creditors

Order pronounced on: 06.11.2019

**Coram: K. ANANTHA PADMANABHA SWAMY, MEMBER JUDICIAL
Dr. BINOD KUMAR SINHA, MEMBER TECHNICAL**

Parties/Counsel Present:

Mr. Taduvai Sivanagaraja, RP

Per: K. Anantha Padmanabha Swamy, Member Judicial

ORDER

1. The present Application bearing IA No.651/2019 in CP No.398/2016 is filed by Resolution Professional inter-alia praying:
 - i. To issue direction for initiation of Liquidation under 30(6) of the IBC since the COC as per Sec.30(6) did not approve the plans with the required majority.





- ii. To appoint eligible IP as Liquidator since the RP is preoccupied with other assignments.
- iii. To direct the CSIDC to withdraw the lease termination order and transfer the lease rights to any beneficiary identified at no extra cost other than what is normally charged to new allottees (other than transfer charges).
- iv. As per the extension order dated 09.04.2019 the CIRP process ends on 06.07.2019 and the Resolution Professional is required to file the Resolution plan 15 days before the last date of CIRP i.e. 21.06.2019, however due to connected matters in DRT and with CSIDC there was delay in filing of Resolution Plan for approval of Adjudicating Authority, its humbly prayed the delay may be condoned.

2. Brief facts of the present Case are as under:

- a. That the present Corporate Debtor was admitted for CIRP on 10.10.2018 and the Applicant herein was appointed as IRP and subsequently was continuing as the Resolution Professional.
- b. That the RP published Form G on 24.12.2018. Though several enquiries were received finally only two EOIs were received from the following Applicants:
 - i. Ms. Uma Devi
 - ii. M/s Hytasu Corporation.

Since both the applicants failed the qualifying criteria as determined by CoC, the EOIs were rejected.

- c. That the COC which met on 24.01.2019, discussed at length on the merits of publishing Form G again or to vote for Liquidation. E-voting was held as per the COC decision on 29.01.2019 and the members with 82% majority desired to publish Form G again.

COC members opted for repeating From G publication accordingly it was published in Newspaper on 01.02.2019.

- d. That the RP once again received an enquiry from M/s Hytasu Corporation, a proprietary concern represented by its proprietor one Mr. Ramakrishna.
 - i. The Applicant produced evidence reflecting that the ROC strike off was done at his own request and that he is eligible to submit Resolution.
 - ii. That the RP got due diligence done from Mr. Kranti ACA who confirmed that the applicant was eligible to submit Resolution Plan.
 - iii. That M/s. Hytasu Corporation was given Information Memorandum, Evaluation Matrix and other necessary documents and they filed Resolution Application with the RP. M/s Hytasu Corporation represented by its proprietor Mr. Ramakrishna submitted its Resolution Plan for the Bollaram Unit initially.
 - iv. The RP called for COC meeting on 2nd July 2019, invited the Resolution Applicant to the meeting and placed the issue before the COC. M/s Hytasu agreed to enhance offer for additional cost wages/salaries and the bankers agreed to shoulder the additional cost.
- e. That M/s Shri Mangal Stone Crushers Pvt Ltd, submitted a Resolution Plan to take over assets at Raipur.
 - i. On the request of the RP the Plan Applicant submitted a cheque for 5 lakhs as deposit in support of his plan
 - ii. The Resolution Plan on scrutiny were placed before the COC and the COC which evaluated all the issues appeared satisfied with the plans. Some of the members of CoC expressly informed they are okay with the Resolution Plans

submitted by Hytasu Corp for taking over the company with the assets at Bollaram, unsold machinery (as on today one optical scanning machine) at Bachupally and the company and Shri Mangal Stone Crusher P Ltd for the assets available at Siltara Estate Raipur.

- f. That E-voting was scheduled for 3rd July 2019 for 24 hours starting from 11 am to enable them to decide on the plans submitted. The E-voting results were mixed. Financial Creditors with 55.41% voting rights supported the plan of Hytasu and 52.52% for the Shri Mangal Stone Crusher Plan. Since the required majority of 66% as mandated in Sec30(6) did not approve the above plans, the same stand rejected and the RP as per sec 30(6) filed the instant petition for initiating Liquidation of the Corporate Debtor.
3. It is also stated by the RP that as he is pre-occupied with other assignments this Adjudicating Authority may relieve him from the assignment and appoint any other eligible IP as Liquidator.
4. It is further stated as the E-voting results came in on 4th July 2019 and CIRP was coming to an end by 6th July 2019, there was no time to call for a COC meeting to identify and recommend a Liquidator. As such this Adjudicating Authority is requested to appoint any eligible IP as Liquidator.
5. Heard both sides and perused the records.
6. With regards to the Prayer (i) & (ii), in view of the facts and circumstances recorded by RP in IA No. 651 of 2019 filed in CP No.398/2016, (TP(HCW)No. 64/HDB/2017), this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30. Therefore, 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. Turbo Machinery Engineering Industries Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- (ii) Moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;
- (iii) 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.
- (iv) We make it clear that para (iii) 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.
- (v) 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.
- (vi) 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 appointed by this Adjudicating Authority. 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.

- (vii) 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.
 - (viii) 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.
 - (ix) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor for information and compliance.
 - (x) As the CoC has not resolved to appoint the Resolution Professional as the Liquidator and even the RP has expressed his inability to act as Liquidator in view of his preoccupation with other assignments, therefore, this Adjudicating Authority, requests the IBBI to suggest the name of a registered Insolvency Professional to be appointed as the Liquidator in this case. The Registry is directed to furnish a copy of this order to IBBI.
7. With regards to the Prayer (iii), this Adjudicating Authority observes that as per provisions of the Code, the Resolution Professional is not entitled or empowered to seek such directions from this Adjudicating Authority. Further, this Adjudicating Authority is also not inclined to grant any such prayer and the same is hereby rejected.

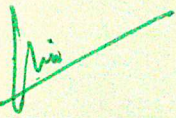
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8. In terms of the above, Registry is directed to list the matter for appointment of the Liquidator after receipt of the name from the IBBI.
9. Put up the matter on 14.11.2019.


Dr. BINOD KUMAR SINHA
MEMBER TECHNICAL

SKRathi


K. ANANTHA PADMANABAHA SWAMY
MEMBER JUDICIAL