

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT III

Item No.310

IA-588/2022 IA-322/2022 IA-5730/2021 IA-2905/2021

In

IB-900(ND)/2020

IN THE MATTER OF:

P.R rolling Mills Pvt Ltd.

V/S

Hema Engineering Industries Ltd

.....APPLICANT/PETITIONER

.....RESPONDENT

SECTION

U/s 9 IBC code 2016

Order delivered on 17.05.2022

CORAM:

SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

PRESENT:

For the RP : Mr. Vishal Ganda, Adv., Ms. Akanksha Mathur, Adv.,
Ms. Sreemantini Mukherjee, Adv, Ms. Tanya Hasija, Adv.
For the Respondent : Poonam Anand Advocate for Non-Applicant no. 3,
Upasana Jajoo in Application No. 322/2022
Adv. U.K. Singhal, CS Akshit Gupta, Adv. Vaibhav Mendiratta
for R-1
IA-588/2022 for Respondent No. 2, IA-322/2022 for
Respondent No. 2, Mr. Vikas Dutta, Advocate, Mr. Siddharth
Silwal, Advocate and Ms. Nivedita Grover, Advocate

ORDER

Due to paucity of time, the matter is adjourned as directed by Hon'ble
Members.

Put up on **06.07.2022.**


(Madhu Narula)
Court Officer Court III

THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT III

IA-1098/2022
IN
CP (IB) No. 900 (ND) of 2020

IN THE MATTER OF:

Mr. Vikas Garg,
Resolution Professional,
M/s Hema Engineering Industries Limited

... APPLICANT

AND IN THE MATTER OF:

M/s P.R. Rolling Mills Private Limited

...OPERATIONAL CREDITOR

Versus

M/s Hema Engineering Industries Limited

...CORPORATE DEBTOR

SECTION

U/s 33 (1) of IBC 2016

Order delivered on 17.05.2022

CORAM:

SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr Vishal Ganda, Advocate

ORDER

Per-Shri Bachu Venkat Balram Das, Member(J)

1. The present application has been filed by the Mr. Vikas Garg, Resolution Professional of the Corporate Debtor M/s Hema Engineering Industries Limited under Section 33(1) (a) of the IBC read with Rule 11 of the National Company Law Tribunal Rules, 2016 for liquidation of the Corporate Debtor. The Applicant was appointed as the Resolution Professional by this Tribunal vide order dated 05.04.2020. The Resolution Professional

IA-1098/2022



issued public notice in Form-G inviting Expression of Interest from five Prospective Resolution Applicants namely as below: -

- a. *Sandhar Technologies Limited*
- b. *Neel Metal Products Limited*
- c. *Micro Turners*
- d. *Capri Global Holdings Private Limited*
- e. *Prudent ARC Limited*

2. Subsequently, another three prospective Resolution Applicants namely also submitted Form-G namely, as below: -

- a. Micro Turners
- b. Sandhar Technologies Limited
- c. Prudent ARC Limited

3. The Resolution Plan submitted by these abovementioned Resolution Applicants were placed before the Members of the CoC. It is seen that seven Resolution Applicants came forward with their Resolution Plan out of which the Resolution Plan submitted by six Applicants were rejected by the CoC in different meetings held by it. With regard to the 7th Resolution Applicant which is M/s Micro Tuners e-voting was held on 13.01.2022 in which the following result: -

S. No.	Name of Financial Creditor	Voting Share (%)	Yes (%)	No (%)	Abstained (%)	Total (%)
1	PHL Fininvest Private Limited	41.03	-	41.03	-	41.03
2	Hero Fincorp Limited	20.13	20.13	-	-	20.13
3	TVS Motor Company Limited	10.19	-	-	10.19	10.19
4	HDFC Bank Limited	6.78	-	6.78	-	6.78
5	Canara Bank	5.77	5.77	-	-	5.77
6	Yes Bank Limited	4.40	-	4.40	-	4.40
7	State Bank of India	4.19	-	-	4.19	4.19

8	Tata Capital Financial Services Limited	3.82	3.82	-	-	3.82
9	Mahindra & Mahindra Financial Services Limited	2.05	-	2.05	-	2.05
10	DRP Financial Services Private Limited	0.70	-	-	0.70	0.70
11	Siemens Financial Services Private Limited	0.46	-	-	0.46	0.46
12	RBL Bank Limited	0.27	-	-	0.27	0.27
13	Omax Autos Limited	0.08	-	0.08	-	0.08
14	Dakalia Brothers Private Limited	0.08	-	-	0.08	0.08
15	Harinkhola Ice & Cold Storage Ltd	0.03	-	-	0.03	0.03
16	Finvaidhyas Advisors Private Limited	0.01	-	-	0.01	0.01
17	Indusind Bank Limited	0.01	0.01	-	-	0.01
	Total	100.00	29.73	54.34	15.93	100.00

4. In terms of Section 30(4), above resolution plan was required to be passed with at least 66% voting in favour of the Resolution. However, the CoC members holding 29.73% voting share only voted in favour of the Resolution. Hence, this Resolution failed and could not be passed.
5. Under these circumstances the Resolution Professional has filed the present application under Section 33(1) (a) of the IBC, 2016 seeking an order of liquidation of the Corporate Debtor in the manner provided under Chapter III of the Code. It is submitted by the Applicant that there is no plan approved by the Members of the CoC and the CIRP period has come to an end on 13.02.2022.
6. After considering the submissions made by the Ld. Counsel for the Applicant/Resolution Professional and going through the averments made in the application, we order that liquidation process of this Corporate Debtor must commence.

7. The CIRP of 270 days in the present matter has expired on 13.02.2022 and the CoC in its 10th meeting dated 13.02.2022 has resolved to liquidate the corporate debtor, and further no resolution plan was found to be feasible. Therefore, under section 12(1) of IBC, 2016 the only option left is liquidation mode as provided under section 33 of IBC, 2016 of which the relevant sub-section (1) is reproduced hereunder: -

“33. (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; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.”

8. This Tribunal in the circumstances taking into consideration the provisions of law as well as on facts is constrained to order for liquidation of the corporate debtor and in the circumstances the corporate debtor and the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 along with the following directions:

- a. Mr. Vikas Garg Resolution Professional holding registration no. IBBI/IPA-001/IP-P01050/2017-18/11733, is appointed as Liquidator and should give its consent to act as the liquidator,

under section 34 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

- b. Mr. Vikas Garg further directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly, in relation to other fiscal and regulatory authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation
- e. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.

- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- i. Copy of this order be sent to the operational creditor, corporate debtor and the Liquidator for taking necessary steps.
- j. I.A. 1098(ND) /2022 is disposed of in the aforesaid terms.


(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)


(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)