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**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

IA/81/CHE/2021 in IBA/624/2019

(filed under Section 12(2) of the Insolvency and Bankruptcy Code, 2016)

Along with

IA/318/CHE/2021 in IBA/624/2019

(filed under Section 33 of the Insolvency and Bankruptcy Code, 2016)

In the matter of **M/s. Coastal Energy Private Limited**

Ramakrishnan Sadasivan

Resolution Professional of
M/s. Coastal Energy Private Limited
Old No. 22, New No. 28,
Menod Street, Purusawalkam,
Chennai – 600 007

... Applicant /Resolution Professional

Order Pronounced on 27th August 2021

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : *B. Dhanaraj, Advocate*

ORDER

Per: ANIL KUMAR B, MEMBER (TECHNICAL)

IA/81/CHE/2021 is an application filed by the Resolution Professional of the Corporate Debtor under Section 12(2) of the Insolvency and Bankruptcy Code 2016 (in short 'IBC, 2016') before this Tribunal on 07.01.2021 seeking relief as follows:

- (i) Grant extension of Corporate Insolvency Resolution Process period of the Corporate Debtor "M/s. Coastal

Energy Private Limited" for 90 days from 11.01.2021 (180th day) till 270th day falling on 09.04.2021.

- (ii) To pass such further or other orders as deemed fit and necessary by the Hon'ble Adjudicating Authority and thus render justice;

2. Thereafter, it is seen that the Applicant has filed IA/318/CHE/2021 before this Tribunal on 31.03.2021 under Section 33(2) of IBC, 2016 seeking relief as follows;

- (i) Pass an Order of Liquidation of the Corporate Debtor "M/s. Coastal Energy Private Limited".
- (ii) Appoint the Applicant / Resolution Professional as the Liquidation of the Corporate Debtor "M/s. Coastal Energy Private Limited."
- (ii) To pass such further or other orders as deemed fit and necessary by the Hon'ble Adjudicating Authority and thus render justice.

3. The brief facts of the case are that in a Section 7 application filed by the Financial Creditor against the Corporate Debtor viz., M/s. Coastal Energy Private Limited, this Tribunal vide order dated 06.01.2020 passed in IBA/624/2019 initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor and appointed one Mr. S. Rajagopal as Interim Resolution Professional (IRP).

4. It is averred in the application that pursuant to the same, the IRP has caused Public Announcement under Section 15 of IBC,



2016 in Form-A on 08.01.2020 in English in "Financial Express" and in Tamil "Dina Malar" and invited claims in accordance with the provisions of IBC, 2016. Thereafter, it is seen that the IRP has received claim to tune of Rs.1679 Crore out of which a sum of Rs.971 Crore was admitted by the Applicant and accordingly, the CoC was constituted by the IRP with the 6 Financial Creditors.

5. Thereafter, it is seen that the CoC in its 3rd combined meeting held on 18.06.2020 and 13.07.2020 has resolved to appoint the Applicant herein as the "Resolution Professional" in relation to the Corporate Debtor. It is also seen from the records that the Expression of Interest in Form - G was issued on 02.11.2020 and the 2nd EoI was issued on 25.11.2020 and also the 3rd EoI was issued on 16.12.2020, however the said EoI did not attract any prospective Resolution Applicants in relation to the Corporate Debtor.

6. It is also seen from the records that the Applicant has filed IA/997/IB/2020 before this Tribunal seeking exclusion of the period from 25.03.2020 till 04.07.2020 from the CIRP timelines, which was lost due to Covid-19 lockdown. Accordingly, this Tribunal vide its order dated 23.12.2020 allowed the said Application and the said period was excluded from the CIRP timelines.



7. It is averred in the Application that the CoC in its 10th meeting held on 04.01.2021 has passed a Resolution to extend the CIRP for a further period of 90 days from 10.01.2021 and directed the Applicant to move an Application in this regard before this Tribunal. Accordingly, the Applicant has filed IA/81/CHE/2021 before this Tribunal and when the matter came up for hearing before this Tribunal on 01.03.2021 the Applicant was directed to file a better Affidavit to sustain the reasons made in the Application, which was also duly complied with by the Applicant.

8. In the meantime, it is seen that since there was no prospective Resolution Applicant who came forward to submit their EoI, the CoC in its 10th meeting has passed a Resolution directing the Applicant to issue a fresh Form – G, and accordingly the Applicant has issued the 4th EoI on 09.01.2021. Pursuant to the same, it is seen that one M/s. RKG Fund, the prospective Resolution Applicant has submitted his Expression of Interest and also deposited the requisite EMD amount of Rs.25 Lakh to the Applicant on 10.02.2021. The Plan submitted by the said prospective Resolution Applicant was scrutinized by the Resolution Professional and after conducting due diligence it was found that the prospective Resolution Applicant did not meet the eligibility criteria as laid down in the 4th EoI and hence the name of the



prospective Resolution Applicant was rejected and the Applicant also refunded the EMD to him.

9. Thereafter, it is seen that the Applicant has issued the 5th EoI on 26.02.2021 as per the resolution passed in the 12th CoC meeting held on 24.02.2021; however there was no prospective Resolution Applicant who came forward in respect of the same. In the 13th CoC meeting held on 16.03.2021, all these aspects were discussed and deliberated upon and it was informed by the Applicant to the CoC that the Corporate Debtor is a trading concern without any operations since 2017 and there are no manufacturing operations or production from the assets of the Corporate Debtor and the majority of the assets of the Corporate Debtor is in the form of receivables and advances. Thus the CoC has unanimously resolved to pass the following Resolution;

"RESOLVED THAT, the CoC members hereby approve the Liquidation of Coastal Energy Private Limited as per Sec.33 of the Insolvency and Bankruptcy Code, 2016.

"FURTHER RESOLVED THAT, the Resolution Professional be and hereby file an Application intimating the Adjudicating Authority of the decision of the CoC to liquidate the Corporate Debtor."

10. Under such circumstances, the Applicant has filed IA/318/CHE/2021 before this Tribunal seeking order of Liquidation in relation to the Corporate Debtor as per Section 33 of IBC, 2016.



11. Heard the submissions made by the Learned Counsel for the Applicant. The Applicant has filed Form – H under Regulation 39(4) of the CIRP Regulations wherein it is seen that the Fair Value and the Liquidation value has been arrived at Rs.376.51 Crore and Rs.370.20 Crore. Further, since the CoC has passed a Resolution for Liquidation of the Corporate Debtor, the relief as sought for in IA/81/CHE/2021 for extension of CIRP period has become infructuous and hence the same stands **closed**.

12. Hence, in the 13th CoC meeting held on 16.03.2021, the Committee of Creditors has deliberated about the current affairs of the Corporate Debtor that they are a trading concern without any operations since 2017 and there are no manufacturing operations or production from the assets of the Corporate Debtor and the majority of the assets of the Corporate Debtor is in the form of receivables and advances and based on its commercial wisdom has decided to liquidate the Corporate Debtor, by taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to the Application from the Promoters of the Corporate Debtor and also guided by the decision of the Hon'ble Supreme Court in the matter of **Mr. K. Sasidharan –Vs– Indian Overseas Bank (2019) SCC OnLine SC 257** this Tribunal orders for the liquidation of the Corporate Debtor.



13. It is also seen from the records that the Applicant herein has accorded his written consent in Form AA to act as the Liquidator of the Corporate Debtor. In the circumstances, **Ramakrishnan Sadasivan**, IBBI/IPA-001/IP-P00108/2017-2018/10215, is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.



- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) 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.
- 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.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation



Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

- j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

14. The application IA/318/CHE/2021 stands **allowed** with the aforesaid terms.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

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