

11

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

IA 1335/IB/2020 in IBA/786/2019

(filed under Section 33(2) of the Insolvency and Bankruptcy Code)

*In the matter of **Shri Ganesh EPC Private Limited***

S. Rajendran
Resolution Professional
Shri Ganesh EPC Private Limited.

---Applicant/ Resolution Professional

Order Pronounced on 29th September 2021

CORAM :

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

For Applicant : R. V. Yajura Devi, Advocate

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

This is an Application filed under section 33(2) of the Insolvency and Bankruptcy Code, 2016, seeking the relief as follows,

- i. To take on record the CIRP of the corporate debtor was conducted from 06.09.2019 upto the order for liquidation, excluding the lockdown period as per regulation 40C of the CIRP Regulations, 2016 and ;*
- ii. Pass an order to liquidate the corporate debtor , Shree Ganesh EPC private limited under section 33(2) of the IBC, 2016 and/ or*
- iii. Pass any such orders as this Hon'ble Tribunal may deem fit and necessary.*

2. Based on an Application filed by the Corporate Debtor viz. Shree Ganesh EPC Private Limited, under Section 10 of IBC, 2016, the Corporate Insolvency Resolution Process (CIRP) was initiated by this Tribunal in IBA/786/2019 vide its order 06.09.2019 and one Mr. J. Manivannan was appointed as the "Interim Resolution Professional". Thereafter, it is seen that the CoC in its 2nd meeting had resolved to appoint the Applicant herein as the Resolution Professional in relation to the Corporate Debtor and accordingly, the CoC has moved MA/1336/2019 under section 22(3)(b) of IBC, 2016 and this Tribunal vide its order dated 30.12.2019 appointed the Applicant herein as the Resolution Professional of the Corporate Debtor.

3. Thereafter, it is seen that the Resolution professional took charge and pursuant to the approval of the COC, the Expression of Interest (EOI) was published the Form G on 27.01.2020 in the Business Line (English) and Dinamani (Tamil). Pursuant to the advertisement, it is seen that the Applicant has received about 4 EOI's on 25.02.2020. Further, in the 4th COC meeting held on 26.02.2020, it was discussed that since the 180th day of the CIRP period is about to end on 03.03.2020, it was decided to file an application to extend the CIRP process to about 90 days to give time for the COC to evaluate the EOI's and arrive at a decision.



However, owing to the Covid-19 pandemic lockdown commencing on 24.03.2020, the matter was not further listed for hearing.

4. It is averred that the EOI's submitted by Mr. N. Azagappan & Mrs. L.K. Rajam (Promoters and Shareholders of the corporate debtor) , Mrs. S. Ramanathan and Mr.M. Karunanithi (promoters and shareholders of the Corporate Debtor) and KSG Enterprises pvt ltd. was due for consideration and evaluation as prospective resolution plans by the CoC. Thereafter, in the 5th, 6th and 7th CoC meetings held on 11.06.2020, 23.07.2020, 05.09.2020 , the resolution plans submitted by the abovementioned applicants, after discussions and deliberation the Plan submitted by Mrs. S. Ramanathan and Mr. M. Karunanithi were declared as the H1 bidders in the 7th COC meeting and they were directed to modify their resolution plan, however the same was not done by the Resolution applicant. Hence, the CoC in its 8th meeting has put to vote all the three resolution plans for e-voting and the CoC has rejected all the Plans submitted by the three Resolution Applicants.

5. Thereafter, in the 9th CoC meeting, the CoC discussed about further course of action and it was decided in the 9th CoC meeting held on 02.11.2020 to liquidate the company and accordingly, the CoC passed a Resolution with 100% to liquidate

the Corporate Debtor. The resolutions passed by the COC unanimously are as follows:-

- i. "Resolved that the corporate debtor – Shree Ganesh EPC private Limited – to be liquidated as per the provisions of the section 33(2) of the insolvency and bankruptcy code, 2016 as all three resolution plans submitted were rejected as they were not viable and feasible and hence not acceptable.
- ii. Resolved that in the event the corporate debtor- Shree Ganesh EPC private Limited-is voted for liquidation , the committee of creditors hereby recommends the sale of corporate debtor as a going concern under clause (e) or sale of the business of corporate debtor as a going concern under clause (f) of Regulation 32 of the IBBI (Liquidation process) Regulations, 2016.
- iii. Resolved that Mr.S.Rajendran Resolution professional having IBBI Reg No(xxxxxxxxxxxxx) be and is appointed as Liquidator of Shree Ganesh EPC private Limited with the following fee structure:
 - a. At the existing RP fees of Rs. 2,00,000/- per month plus GST for the period , if any not exceeding 90 days , used for compromise or arrangement under section 230 of companies act , 2013 and
 - b. Fees as per the rates specified in Regulation 4 (2) (b) of the IBBI (Liquidation Process) Regulations, 2016 for the Balance period liquidation.
- iv. Resolved That in terms of Regulation 39 B of the (IRCP) Regulations, 2016 the estimated liquidation cost amounting to Rs. 51.09 Lacs proposed by the resolution professional be and is hereby approved which is likely to be met from the operational revenues , recievables and liquid assets.

6. Since, in the 9th CoC meeting held on 02.11.2020, the Committee of Creditors has deliberated about the current affairs of

the Corporate Debtor and has also not voted in favour of the Resolution Plan given by the prospective Resolution Applicant and consequently passed a Resolution unanimously for Liquidation of 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.

7. 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. However, on perusal of the records from the IBBI website, it is seen that the Applicant does not have a valid Authorization for Assignment (AFA) issued by any Insolvency Professional Agency, which is mandatory as per Regulation 7A of the IBBI (Insolvency Professionals) Regulations, 2016.

8. In the circumstances, this Tribunal as per Section 34(5) of the IBC, 2016 hereby directs the Insolvency and Bankruptcy Board of India (IBBI) to propose the name of another Insolvency Professional to be appointed as a liquidator. As per Section 34(6) of the IBC, 2016, the IBBI, is directed to propose the name of

another Insolvency Professional along with written consent from the Insolvency Professional in the specified form within 10 days from the date of receipt of this order.

9. Upon the name being proposed by the IBBI for the appointment of an Insolvency Professional as a liquidator, the IA/1335/IB/2020 will be taken up for passing an order of liquidation by appointing such insolvency professional as the liquidator.

10. Post IA/1335/IB/2020 for further orders on **14.10.2021**.

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

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

Raymond

(204)

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 17-01-2022 AT 10:30 A.M THROUGH
VIDEO CONFERENCING:**

**PRESENT: JUSTICE (RETD.) SMT. S. RAMATHILAGAM, MEMBER (JUDICIAL)
SHRI B. ANIL KUMAR, MEMBER (TECHNICAL)**

APPLICATION NUMBER:IA/1335/IB/2020

PETITION NUMBER :IBA/786/2019

NAME OF THE PETITIONER :S.Rajendran (RP)Shree Ganesh Epc Pvt Ltd

NAME OF THE RESPONDENTS :

UNDER SECTION :Sec 33(2) of IBC, 2016



(204) IA/1335/IB/2020 IN IBA/786/2019

ORDER

Learned Counsel for the Applicant/Liquidator Ms. Yajura Devi is present.

Learned Liquidator Mr. S. Rajendran present in person.

The authorisation for assignment (AFA) issued by the Institute of the Insolvency Professional (ICSI) in favour of the Liquidator is valid till 23.12.2022.

The same is taken on record.

The Applicant can proceed with the liquidation process. Accordingly, the date of order of liquidation stands revised as on date i.e., 17.01.2022.

Accordingly, IA/1335/IB/2020 stands allowed.

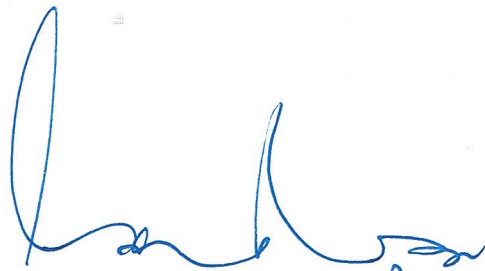
B. ANIL KUMAR
Member (Technical)

Justice (Retd.) S. RAMATHILAGAM
Member (Judicial)

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Certified to be True Copy




DEPUTY REGISTRAR 21 Jan 2022
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR,
29, RAJAJI SALAI, CHENNAI-600001