

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD-1 BENCH



I.A. No. 848 / 2023

IN

C.P. (IB) No. 187/7/HDB/2019

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

In the matter of M/s Ind-Bharat Power Gencom Limited

IN THE MATTER OF:



Sri Rajesh Chillale,

Liquidator for Ind-Barath Power Gencom Limited

Having office at:

B-721, Western Plaza, OV H.S Darga,

Hyderabad – 500008

...Applicant/Liquidator

Date of order: 14.02.2024

Coram:

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

Shri Charan Singh, Hon'ble Member Technical

Appearance:

For Applicant: Mr. VVSN Raju, Advocate

PER: BENCH

ORDER

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

1. The Applicant who is the Liquidator for Ind-Bharat Power Gencom Limited (hereinafter referred as “Corporate Debtor”), has filed this Application *seeking the following prayers:*

i. *condone the delay of 8 days in filing of this closure application.*

ii. *closure of the liquidation process of the Corporate Debtor.*

2. To put precisely, this Tribunal had admitted the petition filed under Section 7 of IBC vide order dated 13.11.2019 filed by the Axis Bank Limited, a financial creditor and ordered commencement of CIRP of the Corporate Debtor. Mr. Ragesh Chillale was appointed as an Interim Resolution Professional and later was confirmed as the Resolution Professional (“RP”) for the Corporate Debtor.

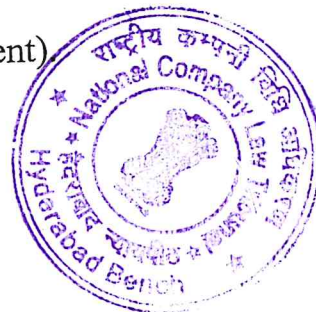
3. The COC during its 11 the CoC meeting held on 17.11.2020 resolved for initiation of Liquidation against the Corporate Debtor. This Tribunal has passed an order for liquidation against the Corporate Debtor in I.A. 1189 of 2020, and the applicant has been appointed as the liquidator for the Corporate Debtor (“Liquidator” / “Respondent”).

4. The Liquidator made public announcement on 20.04.2022 (“Public Announcement”), with e-auction date on 13.05.2022, inviting bids through e-auction for sale of the Corporate Debtor as a going concern under Regulation 32(e) of the Liquidation



Regulations, excluding insurance claim of Rs. 48.20 Crore and Amounts to be recovered from the in respect of applications filed under sec. 43 & 66 of IBC, 2016.

5. The said e-auction held on 13.05.2022, Dr. Madala Srinivasu and Ms. Anitha Madala emerged as successful bidders for the sale of Corporate Debtor as a going concern for a total sale consideration of Rs. 98.762 crores. Thereafter, in compliance with Auction notice and e-auction process Document dated 20.04.2022, the Applicant/Liquidator issued letter of Intent dated 13.05.2022 confirming the sale and other terms and conditions of Sale.
6. IA No. 828 of 2022 was filed by Dr Madala Srinivasu and Ms. Anithaa Madala, this Tribunal, vide its orders dated 26.08.2022 allowed the successful bidder a further period to pay the balance sale consideration along with interest @12%. In compliance, Dr Madala Srinivasu and Ms Anithaa paid full sale consideration along with interest thereon to the tune of Rs. 101,42,33,192/- (Rs. 98,76,20,000 towards sale consideration and Rs. 2,66,13,192/- toward interest on delayed payment)



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7. Having received the full sale consideration, along with the amounts mentioned in order dated 26.08.2022 and in compliance with e-auction process dated 20.04.2022, the company M/s. Ind-Barath Power Gencom Limited was sold to Dr. Madala Srinivasu in consortium with Ms. Madala Anithaa as a Going Concern basis under Regulation 32(e) of the IBBI (Liquidation Process) Regulations, 2016 on “as is where is” and whatever it there is and without recourse basis and the applicant/liquidator issued the sale certificate dated 26.09.2022 in favour of the said bidders. It is not out of place to submit that the assignment of NRRA was still due at the said point of time.

8. The SCC in its 6th meeting resolved to extend to period of Liquidation as the assignment of NRRA was still due and the Liquidation period was coming to an end on 10.11.2022. the applicant therefore filed IA No 1316 of 2022 before this Tribunal vide its order dated 17.11.2022. Thus, the timeline for closure of Liquidation has been extended from 10.11.2022 to 08.02.2023.

9. In compliance with Regulations 31A of Liquidation Regulations, 2016, the Liquidator re-constitution of Stakeholders Consolation Committee with this Tribunal. Thereafter, the SCC at its 7th

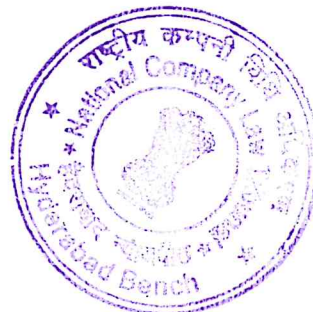


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Meeting held on 22.11.2022, resolved to issue a public notice inviting for expression of interest from interested parties to submit offers for assignment of NRRA. Therefore, a public announcement was made on 24.11.2022 for the sale of NRRA.

10. Pursuant to this public announcement, there are two prospective bidder namely Scorchers Services II Private Limited & Dr. Madala Srinivasu in consortium with Ms. Madala Anithaa have shown interest to acquire the NRRAs and M/s Scorchers Services II Private Limited (Legalpay) submitted their interest to acquire another NRRA.
11. Another application vide IA (IBC) 335 of 2023 was filed before this Tribunal for extension of timelines as the initial extension period was coming to an end on 08.02.2023 and the auction of NRRA was still due by the said date and the same is accordingly allowed the extension of the Liquidation closure once again for a period of 3 months. Accordingly, Liquidation closure has extended from 08.02.2023 to 07.05.2023.



12. In the 10th SCC Meeting the offer of M/s. Scorchers Services II Private Limited (Legalpay) and Dr. Madala Srinivasu in consortium with Ms. Madala Anithaa was put to vote via evoting which commenced on 11.02.2023 and concluded on 22.02.2023 at 05:00PM. The members of Stakeholders Consultation Committee have voted in favour to assign the NRRAs. Thus, both the prospective bidders were assigned the respective NRRAs, as bid for by them respectively.
13. In the said 10th SCC meeting, as a non-agenda item, it was discussed in the meeting that Post assignment of NRR Assets, Liquidator will have to file necessary application for closure of Liquidation Process with NCLT, Hyderabad.
14. On 12.05.2023, the Liquidator called for the 11th Meeting of the SCC in which he discussed about the sale of the CD as going concern, assignment of NRRAs, status of the pending matter before this Tribunal, Distribution of Sale Proceeds as per the waterfall mechanism and also discussed



about the entire receipts and payments from the beginning of the CIRP till completion of Liquidation.

15. As a part of Liquidation closure, the Applicant is required to submit an application along with the final status (i.e., the 8th Status Report) and a compliance certificate in Form H to the Adjudicating Authority pursuant to Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The Applicant also discussed regarding the filing of the same in the 11th Meeting.
16. As the assignment of the NRRA is complete, the Applicant in accordance with the discussion in the 10th SCC meeting & 11th SCC meeting, is proceeding herewith to file this Liquidation Closure Application.
17. Further, it shall be noted that the Liquidation cost is 9% in excess of the estimated liquidation cost provided. As per Regulation 45 (2) if the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.



18. The Liquidator is required to close the Bank Account of the Corporate Debtor as a part of Liquidation Closure. The Liquidator has taken the steps for the closure of the bank account. A copy of the confirmation of the Bank acknowledging the closure of the Bank Account is attached to the application herewith as Annexure-17.

19. It is submitted that there is a delay of 8 days in filing of this closure application as the Liquidator had to hold the 11th SCC meeting to discuss the receipts and payment during the CIRP and Liquidation which took place only on the 12.05.2023. The delay in the meeting has taken place as the receipts could be discussed only after the closure of the Bank account of the CD which only happened on 10.05.2023. It is humbly submitted by the applicant herewith that the delay was neither willful nor wanton and humbly prays for the condonation of a total of 8 days including the day on which this Application is filed.



20. We heard Mr. VVSN Raju, Ld. Counsel 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-13. 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

21. Liquidator further submits that there is a delay of 8 days in filing this closure application. The liquidator had to hold the 11th SCC meeting to discuss the receipts and the payments during the CIRP and Liquidation which took place on 12.05.2023 and there was a delay in completion of all the formalities like closure of bank account of Corporate Debtor etc., the liquidator submits that the delay was neither wilful not wonton and humble prays



for the condonation of delay of 8 days including the pay on which the applicant is filed.

22. We hereby condone the delay of 8 days in filing the liquidation closure application by liquidator and considering the submissions made by liquidator we hereby order closure of the Liquidation proceedings against the Corporate Debtor viz. IND-BARATH POWER GENCOM 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.
23. 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 IND-BARATH POWER GENCOM LIMITED which are in possession of the Liquidator to the successful bidder i.e. Jindal Power Limited.
24. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad and concerned authorities for updating the master data.



25. A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.
26. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
27. In terms of the above, IA No. 848 of 2023 stands disposed of accordingly.



CHARAN SINGH
MEMBER TECHNICAL



DR. VENKATA RAMAKRISHNA BADARINATH NANDULA
MEMBER JUDICIAL

Swapna



20/2/2024

Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER... cp (IB) No. 187/7/HDB/19
निर्णय का तारीख
DATE OF JUDGEMENT... 14/2/24
प्रति तैयार किया गया तारीख
COPY MADE READY ON... 20/2/24