

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

**IA No.1027/2020  
In  
CP(IB)No.328/7/HDB/2018**

**In the matter of:**

M/s. KVK Nilachal Power Private Limited  
Having its Registered Office at:  
6-3-1109/A/1, 3<sup>rd</sup> Floor,  
Navabharat Chambaras,  
Raj Bhavan Road, Somajiguda,  
Hyderabad – 500 082, Telangana.

(Rep. by its RP, Mr. Rajendra Prasad Tak)

**...Applicant/  
Corporate Debtor**

**Order pronounced on: 17.12.2020**

**Coram: Shri. K. Anantha Padmanabha Swamy, Member Judicial.  
Dr. Binod Kumar Sinha, Member Technical.**

**Parties/ Counsels Present:-**

Mr. Narender Naik & Mr. Rahul Kumar, counsels for RP

**Per: K. Anantha Padmanabha Swamy, Member Judicial.**

**ORDER**

1. The present Application bearing IA No. 1027/2020 in CP(IB)No. 328/7/HDB/2018 is filed by Resolution Professional U/s. 33 of the IB Code, 2016 inter-alia seeking following prayers:-
  - a. Allow the present application and pass an order requiring the corporate debtor to be liquidated in the manner as laid down in the Insolvency and Bankruptcy Code, 2016.
  - b. Appoint the Resolution Professional as the liquidator under S.34(1) of the Insolvency and Bankruptcy Code, 2016.

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c. Pass any other order as this Adjudicating Authority may deem fit and proper in the facts and circumstance of the case.

2. Brief facts as stated by the counsel for the Applicant are as follows:-

- a. That M/s. Power Finance Corporation Limited (Financial Creditor) filed CP(IB)No.328/7/HDB/2018 against M/s. KVK Nilachal Power Private Limited (Corporate Debtor) under Section 7 of the IB Code and vide order dated 17.09.2019, this Adjudicating Authority admitted the said Application and Mr. Rajendra Prasad Tak was appointed as the Interim Resolution Professional.
- b. That in the 1<sup>st</sup> CoC meeting, held on 21.10.2019, the Applicant herein was confirmed as the Resolution Professional.
- c. That in the 8<sup>th</sup> CoC meeting held on 16.03.2020 and 17.03.2020, CoC with 100% votes has resolved for liquidation of the Corporate Debtor and has also resolved to continue the RP to act as 'Liquidator' of the Company.
- d. That CoC in its 8<sup>th</sup> meeting held on 16.03.2020 and 17.03.2020 has resolved as under:-

***"RESOLVED that the CoC decided not to seek extension of CIRP period in the case and that there is no other option but to take the Corporate Debtor into Liquidation Process in accordance with the provisions of IBC 2016."***

***"RESOLVED FURTHER that the CoC authorized the Resolution Professional to file an application in this regard before the Hon'ble NCLT, Hyderabad Bench."***

***"RESOLVED FURTHER that pursuant to the provision contained in Regulation 39B of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, approval of the Committee of Creditors be and is hereby granted to the Liquidation Cost (including the fee of the liquidator) of the Corporate Debtor as placed before the Committee of Creditors and as attached as Annexure -A along with the minutes of the 8<sup>th</sup> CoC meeting."***

3. Heard the RP and perused the records.

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4. In view of the facts and circumstances as recorded by RP in IA No. 1027 of 2020 filed in CP(IB) No. 328/7/HDB/2020, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016. Consequently, this Adjudicating Authority deems it proper to allow the Application bearing IA No. 1027/2020 as prayed for. Accordingly, 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. KVK Nilachal Power Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- (ii) This Adjudicating Authority hereby appoint Mr. Rajendra Prasad Tak who has given his consent dated 17.03.2020 to act as Liquidator in the present case. He is further directed to file his Authorisation for Assignment (AoA) within 7 days from date of this order. He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;
- (iii) The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;
- (iv) 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.
- (v) We make it clear that para (iv) 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.

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- (vi) 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.
- (vii) 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 viz., Mr. Rajendra Prasad Tak. 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.
- (viii) 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.
- (ix) The Liquidator shall keep in view the provisions of Regulation 32A of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the assets of the Corporate Debtor under clauses (a) to (d) of Regulation 32 of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016.
- (x) 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.

(xi) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. Rajendra Prasad Tak for information and compliance.

(xii) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.

5. Accordingly, Application bearing IA No.1027/2020 stands disposed off.



**Dr. Binod Kumar Sinha**  
**Member Technical**



**K. Anantha Padmanabha Swamy**  
**Member Judicial**