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

IA/627/CHE/2023 in IBA/483/2020

(Filed under Section 33(1) of the Insolvency and Bankruptcy Code, 2016)

In the matter of **CONSOLIDATED CONSTRUCTION CONSORTIUM LIMITED**

Mr. Krishnasamy Vasudevan

Resolution Professional

M/s Consolidated Construction Consortium Limited

Office at 178/7B, Maruthi Nagar,

Hasthinapuram, Chromepet, Chennai-600064

... Applicant

Order Pronounced on 12th May 2023

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant : *K. Moorthy, Advocate*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

The hearing of this Application was conducted through video conferencing mode.

2. This is an application filed under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 by the Applicant Resolution Professional of

the Corporate Debtor viz., Consolidated Construction Consortium Limited seeking the following reliefs:-

- "a. Initiate Liquidation proceedings of the Corporate Debtor M/s Consolidated Construction Consortium Limited and;*
- b. Pass such other orders that thus Hon'ble Tribunal may deem fit and proper and thus render justice. "*

3. This Application was filed before this Tribunal on 31.01.2023. On verification of our records on the delay in numbering the Application, the Registry of this Tribunal has responded as follows

"that Mr. Krishnasamy Vasudevan, RP, M/s. Consolidated Constructions Consortium filed an IA (E-filing Dy. No. 33051180/0369/2023) on 31.01.2023 seeking approval of liquidation of the Corporate Debtor. Physical copies of the application were filed on **02.02.2023**. On scrutiny, it was noted that the Affidavit in the physical copy was not matching with the Affidavit filed in the E-filing portal and that certain pages of the application were found to be not legible. The defects were sent through E-filing portal **03.02.2023**.

2. The Applicant collected the physical copies of the application on **13.03.2023** and refiled the application on **16.03.2023**. On further scrutiny, it was found that the defects were not cleared by the applicant, they were asked to rectify the same. **The defect was finally rectified by the applicant on 19.04.2023.** The application was processed further and numbered as IA/627/2023 on 25.04.2023. With the approval of the HoD, the IA was listed for hearing on **02.05.2023."**



In this background the Application for Liquidation is filed before this Tribunal. There seems to be a willful delay on the part of the Resolution Professional in filing this present Liquidation Application. The Applicant has been very lethargic all through and not serious in filing and prosecuting the Application before this Tribunal.

4. The CIRP of the Corporate Debtor was initiated on 24.04.2021 in IBC/483/2020 and appointed one Mr. Krishnasamy Vasudevan as the Interim Resolution Professional ("IRP" for brevity) and the IRP had caused the Public Announcement on 24.04.2021.

5. It is averred in *para V* of the Application that there the Applicant filed the report for constitution of CoC before this Tribunal on 14.05.2021. Further in the Ist CoC meeting held on 21.05.2021 the IRP (Insolvency Resolution Professional) was confirmed as the Resolution Professional.

6. It is averred in *para viii* of the Application that total of 17 CoC meetings were held in the matter.



7. It is averred in *para X* that pursuant to the regulations, expression of Interest was issued by the Applicant on 06.09.2021. The said copy of FORM G dated 06.09.2021 is placed as Annexure 7 of the Application typeset.

8. It is submitted that one Prospective Resolution Applicant (PRA) viz. M/s PNC Infrastructure Limited had shown interest in response to the EOI dated 06.09.2021. Further it is submitted that PRA vide an email dated 28.10.2021 to the applicant had requested time till 05.12.2021 for filing the Resolution Plan.

9. It is averred in *para 12* of the Application that the Committee of Creditors had in its 5th meeting held on 30.10.2021 had decided to extend the timelines by reissuing the Expression of Interest by trying to get more prospective bidders.

10. Pursuant to the same, Expression of Interest was reissued with the revised timelines on 04.11.2021 with the last date for receipt of Expression of Interest being 19.11.2021. The existing Prospective Resolution Applicant was permitted by the Committee of Creditors to participate in

the current Expression of Interest. As on the last date of submission of Expression of Interest, again no interested bidders have submitted their Expression of Interest. As per the Expression of Interest the last date for submission of Resolution Plan was 03.01.2022. The said copy of the 5th CoC meeting held on 30.10.2021 is annexed in the Application typeset as as Annexure-9.

11. It can be seen from *para XIV* of the Application that in the 7th COC meeting dated 06.01.2022, the COC resolved to modify the eligibility criteria for EOI as the only PRA M/s PNC Infrastructure Limited has not submitted the Resolution plan within the timeline prescribed and subsequently fresh FORM G was published on 17.01.2022.

12. It is seen from *para XVIII* that Five (5) EOI was received from the following persons namely:-

- a) M/s. Sherisha Technologies Pvt Ltd
- b) M/s. KLJ Resources Limited
- c) M/s. RKG AMC Fund I
- d) Dickey Alternative Investment Trust
- e) Sri Kakatiya Industries (India) Private Limited (M/s. Sri Mahalakshmi Hyderabad Projects LLP)

13. Further it is averred in *para XIX* that out the 5 persons mentioned Supra only 3 viz., a) M/s. Sherisha Technologies Pvt Ltd, b) M/s. KLJ Resources Limited, c) M/s. RKG AMC Fund I satisfied the eligibility criteria as approved by COC in its 9th meeting held on 10.02.2022.

14. It is seen from *para XX* that the last date of submission of Resolution Plans was fixed as 18.03.2022, no resolution plans were received from any of the PRAS. Hence, in the 11th meeting of the COC held on 19.03.2022, it was decided by the COC to extend the last date for submission of resolution plans to 08.04.2022. Copy of the minutes of the 11th meeting of the COC held on 19.03.2022 is enclosed as Annexure – 14 of the Application typeset.

15. It is submitted that even after extending the last date for submission of Resolution Plans i.e. 08.04.2022, *no resolution plans were received from any of the PRAS*. Hence, in the 12th meeting of the Committee of Creditors held on 11.04.2022, it was decided by the CoC to extend the last date for submission of resolution plans by the PRAS to 30.04.2022.



16. Further it is averred in *para xxi*, that even at the end of 30.04.2022, no resolution plans were received from any of the PRAS. Copy of the minutes of the 12th meeting of the COC held on 11.04.2022 is placed as Annexure-15 of the Application typeset.

17. Further it is averred in *para xxiii* that the Promoters of the corporate debtor had submitted a settlement plan under section 12A of the IBC on 09.05.2022. Pursuant to the same IA/1484/2022 was filed before this Tribunal and the same was disposed of by this Tribunal vide order dated 07.03.2023, *directing the RP and the COC to take actions as available under the code and attendant regulations.*

18. It is submitted that, as the lenders and the promoters have not reached any agreement on the final terms of the Settlement Plan and as the last date of the CIRP being 29.05.2022, in the 13th COC meeting, it was resolved to uniformly exclude 60 days from the Corporate Insolvency Resolution Process. Pursuant to the above said resolution made in the 13th COC meeting, IA/725/CHE/2022 was filed and this Tribunal on hearing the said Application on 14.07.2022 had *allowed* the said

Application and directed the Resolution Professional to come out with another Form-G and complete the entire process within 60 days from the date of the order.

19. Subsequently, it is submitted that Form G dated 25.07.2022 was published in compliance to the order mentioned *Supra*. In response to the Form-G, the Applicant has received EOI's from the following PRA's:-

- a) Dickey Alternate Investment Trust
- b) PNC Infratech Limited
- c) Vedanta Limited
- d) Consortium of Ms. Shobha Gupta, Egwood Boards and Panels Private Limited and Bhagwat Shanti Jewellers LLP.

20. It is averred in *para xxvii* that the Application that on request of the PRA's for extension of time in submission of the Resolution Plan, in the 15th COC meeting held on 08.09.2022 decided to file an Application IA/1070/CHE/2022, seeking exclusion of 75 days from the CIRP. This



Tribunal vide order dated 20.12.2022 disposed of the said Application in the following manner:-

8 IBA/483/2020
IA/43(CHE)/2022; IA/121(CHE)/2022; IA/1109(CHE)/2022;
IA/1070(CHE)/2022

ORDER

All the parties are physically present before this Tribunal.

IA/1070(CHE)/2022:

This Application has been filed by the Ld. RP seeking an exclusion of 75 days from the date of order from the CIRP timelines in pursuance to Regulations and declare the revised last date of the CIRP as 27.11.2022.

It is seen that vide order dated 08.03.2022 in IA/104/2022 this Tribunal has fixed the 270th day in the matter as 29.05.2022 the timelines later on revised vide order dated 14.07.2022 in IA/725/2022 and time were extended till 12.09.2022.

The Applicant seeks exclusion of another 75 days in terms of the Hon'ble Supreme Court order dated 10.01.2022 in the Suomoto order extending the timeline on account of Covid. It was also submitted that the CoC meeting held on 08.09.2022, a resolution was passed in relation to the same and the relevant resolution of the CoC is annexed at page No. 208.

We are of the view, that exclusion sought under the present Application ought to have been placed before this Tribunal for consideration before any order in IA/725/2022 was passed and further




that all exclusions available were granted to the Corporate Debtor under the two orders dated 08.03.2022 and 14.07.2022.


No resolution plan is under consideration of COC. This Application filed by the Applicant appears to be on afterthought.

Hence, this IA/1070(CHE)/2022 stands **dismissed**.

List all other matters on **20.02.2023** for further hearing.



[SAMEER KAKAR]
MEMBER (TECHNICAL)
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[JUSTICE RAMALINGAM SUDHAKAR]
(PRESIDENT)

Apparently, the order of this Tribunal dated 20.12.2022 has not been challenged by the Applicant and in our view has assumed finality .

21. The CIRP timelines as averred in *para XXVIII* the application is extracted below



Sl No	Description	Time line
1.	Commencement of CIRP	20.04.2021
2.	Completion of 180 days	18.10.2021
3.	180 days completion after exclusion of period by order dated 27.08.2021 in IA/577/(CHE)/2021	28.01.2022
4.	180 days completion, by applying the extension of Limitation by Hon'ble Supreme Court by its order dated 10.01.2022 in MA 21/2022 in MA 665/2021 in Suo Motu Writ Petition No. 03/2020 [exclusion from 28.01.2022 to 28.02.2022 ~ 31 days]	28.02.2022
5.	Completion of 270 days, by order in IA(IBC)104(CHE)2022 dated 08.03.2022	29.05.2022
6.	Completion of CIRP timelines as per order in IA(IBC)725(CHE)2022 dated 14/07/2022 (enclosed as Annexure- 21)	12.09.2022

22. The Ld. Counsel for the Applicant appeared and submitted that the COC till date did not resolve to place the Corporate Debtor for liquidation. However as the CIRP timeline has lapsed and that no resolution plan is pending for consideration before the Applicant RP. Hence, this current Application has been filed before this Tribunal.

23. Heard the submissions of the Ld. Counsel for the Applicant and perused the documents placed on record. It can be seen from the submissions of the Applicant that the CIRP timelines have lapsed as on 12.09.2022 as it can be clearly seen from the order dated 20.12.2022 and



clearly no resolution plan for the Corporate Debtor is under consideration of the CoC as on date of filing this Application. Further no 12A application is pending before this Tribunal for adjudication. Considering the circumstances this Tribunal has no other option other than to order for liquidation of this Corporate Debtor viz., Consolidated Construction Consortium Limited under Section 33 (1) of IBC, 2016. It can be seen that the present matter satisfies the mandate under Section 33(1)(a) of the IBC, 2016. The Section 33(1)(a) of the IBC, 2016 is extracted 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.

24. In our view the Corporate Insolvency Resolution Process of the Corporate Debtor ended on 12.09.2022.

25. Further, this Tribunal on perusal of the records filed before us can see that the Applicant RP in this said matter has not followed the timelines of the Code and has delayed in filing the liquidation Application before this Tribunal in accordance to the statutory provisions and the attendant regulations and was lax in prosecuting the present Application. This bench is of the considered opinion that the conduct of the Applicant RP viz., Mr. Krishnasamy Vasudevan with Registration No: IBBI/IPA-001/IP-P00155/2017-2018/10324 is questionable.

26. Therefore, this Adjudicating Authority feels that the very object of appointing the IRP as the officer of court has been compromised. *The registry is directed to mark a copy to IBBI and IIPPI for necessary action.*

27. It is also seen from the records that the Applicant herein has accorded the written consent to act as the Liquidator of the Corporate

Debtor. However as there is no resolution of the COC in place recommending the Applicant RP as the Liquidator, this Tribunal is constrained to order appointment of **Mr. Radhakrishnan Dharmarajan** with Registration No. **IBBI/IPA-001/IPP00108/2017-18/10215** (e.mail: dharma@rdhandco.com) 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, 2016 as amended upto date enjoined thereupon.
- 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.

28. With the above directions, this IA/627/CHE/2023 stands **allowed**.



—SD—

SAMEER KAKAR
MEMBER (TECHNICAL)



—SD—

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT