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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

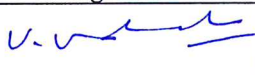
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 16.07.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.565/2019 in CP(IB) No.343/7/HDB/2018
NAME OF THE COMPANY	Southern Online - Bio Technologies Ltd
NAME OF THE PETITIONER(S)	Bank of India
NAME OF THE RESPONDENT(S)	Southern Online - Bio Technologies Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
CA G. KALPANA	RP	kalpanagonugunta1@gmail.com 99625 68558	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V. Venkata Ram Reddy - Advocate		9542239039	

ORDER

Liquidation order passed in IA 565 of 2019 vide separate orders.

Liquidator to file his report within 75 days.


Member (J)

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

IA No. 565 of 2019

IN

CP (IB).No.343/7/HDB/2018

U/s 33 (2), 34 (1) & 60 (5) of IBC, 2016

**In the Matter of Bank of India vs M/s. Southern Online Bio
Technologies Limited**

Ms. Kalpana G

Resolution Professional

Reg. No. IBBI/IPA-001/IP-P00756/2017-2018/11288

H.No.16-11-19/4, G-1, Sri Laxmi Nilayam,

Saleem Nagar Colony, Malakpet,

Hyderabd-500036.

...Applicant/
Resolution Professional

Date of Order: 16.07. 2019

Coram:

Hon'ble Shri RatakondaMurali, Member (Judicial)

Parties / Counsels Present:

For Applicant/Resolution Professional: G.Kalpana, CA.

Per: Hon'ble Shri RatakondaMurali, Member (Judicial)

Heard on: 08.07.2019




ORDER

1. The Present Application is filed by the Resolution Professional under Section 33(2), Section 34(1) & Section 60(5) Of Insolvency And Bankruptcy Code 2016, Read With Rule 11 Of National Company Law Tribunal Rules, 2016, seeking orders for liquidating the Corporate Debtor **M/s. Southern Online Bio Technologies Limited** and further to appoint the Resolution Professional/ Applicant herein to act as Liquidator.
2. The averments made in the Application in brief are as follows:
 - a) This Tribunal vide order dated 05.10.2018 admitted the Petition filed under Section 7 of IBC, 2016 by Bank of India / Financial Creditor and Corporate Insolvency Resolution Process (CIRP) started against Corporate Debtor M/s Southern Online Bio Technologies Limited. Ms. G. Kalpana, the Applicant herein was appointed as Interim Resolution Professional.
 - b) Pursuant to the above order and as per provisions contained in Section 13, 15 of IBC, 2016 R/w Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant / IRP carried out public announcement on 07.10.2018 in Financial Express (English) and Sakshi (Telugu) Newspapers inviting claims by 20.10.2018.
 - c) The Applicant herein, in compliance with Regulation 13 (2) (d) of IBBI (IRPCP) Regulations, 2016 filed the list of Creditors on 29.10.2018. The CoC constituted with the following Creditors.

Sl.No.1	Creditor Name	Claim Amt	Claim %
1	BOI	2,207,353,860	47%
2	SBI	1,452,590,875	31%
3	UCO	869,872,462	19%
4	PNB	126,661,214	3%
	Total claims	4,656,478,413	100%

- d)** It is the case of Applicant, in the 1st CoC meeting held on 02.11.2018, no decision was taken about confirming the Interim Resolution Professional/ the Applicant herein as Resolution Professional. However, the Applicant was informed about appointing her as Resolution Professional by the CoC on 22.11.2018 and that she continued as Interim Resolution Professional till then.
- e)** It is averred that as per decision taken in the second meeting of COC held on 13.12.2018, the Applicant carried out newspaper publication of Form-G on 18.10.2018 inviting expression of interest from the prospective Resolution Applicants and the last date of submission of expression of interest being 02.01.2019. The same was further extended up to 21.01.2019 as per decision taken in the 3rd CoC meeting held on 08.01.2019 and notified about the extension in "Sakshi" and "Business Line" on 09.01.2019.
- f)** It is averred that in the third meeting of COC held on 08.01.2019, the members of the COC resolved to extend the period for inviting expression of interest till 21st January, 2019 and directed the Applicant to issue publication in Form-G. The Applicant accordingly

issued publication in Form-G (Invitation for Expression of Interest) in the newspapers on 09.01.2019 and the last date for submission of Resolution Plan was 15.02.2019, for which the Resolution Professional received only one Expression of Interest which was placed before the CoC and last date to submit the Resolution Plan was 15.02.2019.

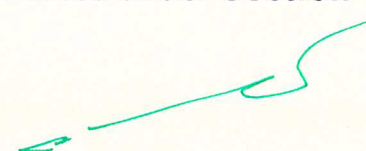
- g)** It is averred that in the 4th COC meeting held on 19.02.2019 the members of COC unanimously resolved to extend the time to submit Resolution Plan till 27.02.2019. In the 5th COC meeting held on 27.02.2019 Resolution Professional informed the members about the request of one of the applicants for extension of time till 07.03.2019 to submit the resolution Plan and the members of COC decided to extend the time till 7th March, 2019.
 - h)** In the 6th COC meeting held on 07.03.2019, the Applicant informed the CoC that none of the applicants submitted the Resolution Plan and that CoC with 97% voting share decided to issue another expression of interest in Form G on 09.03.2019 and to extend the CIRP period for 90 days beyond 180 days w.e.f. 27.03.2019. The same was allowed vide orders passed in IA 210/2019.
 - i)** It is averred in the 7th COC meeting held on 08.04.2019, the Applicant appraised the CoC about receiving expression of interest from prospective Resolution Applicants and after due deliberations requested the Applicant to direct the Resolution Applicants to submit the Resolution Plan by 21st May, 2019.
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- j)** It is averred that in the 8th COC meeting held on 17th April, 2019 to appraise the members about the Legal Opinion received on the issue of Expression of Interest Division wise. The 3 resolution plans (two for the whole company and one for one of the division) received as per details given below were discussed in the 9th meeting of Committee of Creditors held on 21st May, 2019 and discussed about the
- i. M/s Shiresha Technologies Private Limited for the whole company
 - ii. M/s Santhoshimathaa Edible Oils Refinery Private Limited for the whole company
 - iii. M/s Hargun Agro Industries Private Limited for the Nalgonda division of the Company
- k)** The Applicant stated she placed all the three plans before the Committee of Creditors for evaluation as per Evaluation Matrix criteria and COC after scrutinizing the Resolution Plans as per Section 30 of the Insolvency and Bankruptcy Code, 2016 and Regulations 37 & 38 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 decided to negotiate with the Resolution Applicants for enhancing the amount in the 10th COC meeting held on 30.05.2019. The same was discussed with the three Resolution Applicants in the 11th COC meeting held on 3rd June, 2019 and requested them to enhance their proposal and also reduction in time frame for payment.
- l)** In the 12th and 13th CoC Meetings held on 04.06.2019 and 17.06.2019, the Applicant appraised the CoC about the revised offers given by the three Resolution

Applicants but CoC further directed the Resolution Professional to negotiate with the three Resolution Applicants. Subsequently, the Resolution Plan submitted by Resolution Applicant M/s Santhoshimathaa Edible Oils Refinery Private Limited was chosen and further COC informed the Resolution Professional that they need time to get the decision on Resolution Plans from their higher officials.

- m) The Applicant also stated to have informed the COC members about the timeline of CIRP mentioned in RFRP document and to submit the performance guarantee by the successful Resolution Applicant which is 7 business days and also about the timeline to file an application before this Tribunal for approval of the Resolution Plan.
- n) The Agenda item in the 14th meeting of Committee of Creditors held on 25th June, 2019, was either to vote for approval of Resolution Plan or to Liquidate the Corporate Debtor and CoC decided for E Voting from 27th June to 4.00PM to 28th June and on the request of one of the COC Members i.e UCO Bank the Resolution Professional extended the timeline of E Voting till 5.00 PM of 29th June, 2019. The e-Voting details are as follows:

S. No.	Member of the COC	Voting %	For Approval of Resolution Plan	For Liquidation
1	BOI	47%		Yes
2	SBI	31%	Yes	
3	UCO	19%		Yes
4	PNB	3%		Yes
	Total	100%		

- o) Since 69% of voting share of CoC voted in favour of liquidation, as per the instructions of CoC, the Applicant herein moved this Application under Section 33 (2), seeking orders for liquidating the Corporate Debtor Company. It is further averred that 270 days CIRP period came to an end on 01.07.2019.
3. Heard Counsel for Resolution Professional. The Present Application is filed by the Resolution Professional under Section 33(2), Section 34(1) & Section 60(5) of the Code seeking initiation of liquidation process of M/s. Southern Online Bio Technologies Limited (Corporate Debtor).
4. The Resolution Professional informed the CoC that she received only three Resolution Plans and M/s Santhoshimathaa Edible Oils Refinery Private Limited was selected as H1 Resolution Applicant and all the members of COC informed the Resolution Professional that they need time to get the decision on Resolution Plans from their higher officials.
5. As per the result of the e-voting on 29.06.2019, the CoC members with 69 % of the voting share in the COC, voted against Resolution Plan submitted by M/s Santhoshimathaa Edible Oils Refinery Private Limited and the Resolution Plan accordingly stands rejected by the COC. The CIRP period of 270 days came to an end on 01.07.2019. Hence, the CoC passed a resolution for liquidating the Corporate Debtor Company.
6. *Section 33 of Insolvency and Bankruptcy Code,2016 read as follows:*
- (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***
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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.

7. As Per Section 33(1) (a) of the Code if the Resolution Plan is not received under Section 30(6) with in CIRP period, the Tribunal has no other option but to pass a liquidation order. The Resolution Professional has not filed any Resolution Plan before this Tribunal under Section 30(6) with in CIRP period and the Resolution Plan submitted by the M/s Santhoshimathaa Edible Oils Refinery Private Limited was rejected by the COC with 69% voting share. By relying on Section 33(1)(a) of the Code, the Resolution Professional having not submitted any Resolution Plan within CIRP period leads to passing an order of liquidation. I see no other alternative other than passing an order of liquidation requiring the Corporate Debtor, namely M/s. Southern Online Bio Technologies Limited, to be liquidated in the manner laid down in Chapter 3 of Part 2 of the Insolvency and Bankruptcy Code, 2016.
8. As per Section 34(1) of the Code after passing order of liquidation of corporate Debtor the Resolution Professional

appointed for CIRP Process should act as Liquidator for conducting Liquidation Process. Accordingly Mrs. G.Kalpana, is appointed as the Liquidator. The Resolution Professional has given her consent for appointing her as a liquidator.

ORDER

9. In the result, the Application is allowed and Corporate Debtor M/s Southern Online Bio Technologies Limited is ordered to be liquidated.
 10. The Resolution Professional Mrs. G.Kalpana, is appointed as the Liquidator to continue the Liquidation Process who has given her consent on 01.07.2019.
 11. The Liquidator is directed to proceed with the process of liquidation in manner laid down in Chapter III of Part 2 of the Insolvency and Bankruptcy Code, 2016 by following the liquidation process given in IBBI (Liquidation Process) Regulations, 2016.
 12. All 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 Liquidator.
 13. The Liquidator is directed to issue Public Announcement stating that the Corporate Debtor is liquidation, in terms of Regulation 12 of the IBBI(Liquidation Process) Regulations, 2016.
 14. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect.
 15. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Code.
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16. Since Liquidation order has been passed no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, save and except as mentioned in Section 52 of the Code, as to institution of legal proceedings by the Liquidator, he is at liberty to initiate suit or legal proceedings with prior approval of this Adjudicating Authority, but this direction shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
17. I hereby direct that the fee shall be paid to the Liquidator as envisaged under Regulation 4 of IBBI (Liquidation process) Regulations, which forms part of the liquidation cost.
18. The Liquidator shall submit a Preliminary Report within 75 days from the Liquidation Commencement date as per Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016.
19. The Application is disposed of accordingly.


RATAKONDA MURALI
MEMBER (JUDICIAL)