

SL. No.7

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(Video Conference)-Virtual Hearing

**CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON’BLE MEMBER (J)
CORAM: SATYA RANJAN PRASAD - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 09.01.2023 AT 04:00 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC) /1266/2022 in CP (IB) No.430/7/HDB/2020
NAME OF THE COMPANY	K.R.RInfraprojects Pvt Ltd
NAME OF THE PETITIONER(S)	State Bank of India
NAME OF THE RESPONDENT(S)	K.R.R Infraprojects Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Mr. Amir Bhavani, Learned Counsel for the Liquidator is present in person.

Orders in **IA 1266/2022 in CP(IB) 430/7/HDB/2020** pronounced, recorded vide separate sheets. In the result, this application is **allowed in terms of the directions mentioned in the Order.**

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

Syamala

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

I.A. No. 1266/2022 in
C.P. (IB) No. 430/7/HDB/2020
Under Section 60(5) of the IB Code, 2016 r/w
Regulations 32A & 44 of the IBBI (Liquidation Process) Regulations, 2016.

In the matter of
M/S KRR INFRA PROJECTS PRIVATE LIMITED

Sri Krishna Mohan Gollamudi,
Liquidator,
KRR Infra Projects Ltd.,
F-26, Raghava Ratna Towers,
Chirag Ali Lane, Abids, Hyderabad - 500001.

... Applicant

Date of Order: 09.01.2023

Coram:

Dr. Venkata Ramakrishna Badarinath Nandula, Member, Judicial

Sri Satya Ranjan Prasad, Member, Technical

Counsel present:

For the Applicant: Mr. Amir Bavani, Advocate

Per : Bench

ORDER

1. Under consideration is an Interlocutory Application filed by the Liquidator (hereinafter referred to as the "Applicant"), of M/S KRR Infra Projects Ltd. (hereinafter referred to as the "Corporate Debtor"), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code, 2016"), read with Regulations 32A & 44 of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter referred to as the "Liquidation Regulations, 2016"), seeking for an order granting the reliefs/waivers/concessions sought by the successful bidder, who purchased the Corporate Debtor as a going concern in the e-auction, dated 12.06.2022.

2. Brief facts of the matter, as submitted by the Applicant, are as follows:
 - a) Corporate Insolvency Resolution Process had been initiated against the Corporate Debtor, vide order of this Tribunal dated 06.08.2021 and the Applicant was appointed as the Interim Resolution Professional, who was confirmed as the Resolution Professional by the Committee of Creditors (hereinafter referred to as "the CoC") in its 2nd meeting, dated 01.10.2021.
 - b) Since there were no assets available and there was clarity on the possibility of realization of the receivables, which were under litigations and with the chances of continuing the Corporate Debtor as going concern and receiving resolution plans being remote, the CoC, in its 4th meeting, dated 4.01.2022,

resolved, vide a majority vote of 93.2%, to liquidate the Corporate Debtor, which was ordered by this Tribunal, vide order dated 22.03.2022 and the Applicant herein had been appointed as the Liquidator.

- c) The Applicant commenced the proceedings by issuing a public announcement, dated 01.04.2022, in Form B, under Regulation 12 of the Liquidation Regulations, 2016, calling upon the stakeholders of the Corporate Debtor to submit their claims, by 21.04.2022.
- d) Since the Corporate Debtor had no fixed assets except some receivables, the Applicant further proceeded under Regulations 32, 32A and 33 of the Liquidation Regulations, 2016 and published two e-auction sale notices, dated 22.05.2022 and 03.06.2022, wherein it was specifically stated that the Corporate Debtor be sold as a going concern on 'as is where is', 'as is what is', 'whatever there is' and 'no recourse' basis.
- e) Pursuantly, as per e-auction sale notice dated 03.06.2022, the e-auction was conducted on 12.06.2022, in which the Corporate Debtor was sold as a going concern and accordingly, a 'Letter of Intent' was issued to the successful bidder.
- f) The successful bidder paid 25% of the consideration amount immediately after issuance of the 'Letter of Intent' and the balance of 75% was duly paid by 16.09.2022. In furtherance to the receipt of the full consideration amount, the Applicant had disbursed the amounts, as per Section 53 of the Code, 2016.

- g) Thereafter, in the 2nd meeting of the stakeholders, dated 18.10.2022, the Applicant apprised the stakeholders that the bidder submitted a letter, dated 07.10.2022, to the Applicant, laying down certain reliefs, exemptions and concessions for concluding the sale of the Corporate Debtor as a going concern. The Applicant also apprised the stakeholders that the sale fetched Rs. 2,62,50,000/-.
- h) The members of the Stakeholders Committee advised the Applicant in favor of filing an appropriate application before this Hon'ble Tribunal seeking all reliefs, waivers and concessions as sought by the successful bidder. Hence, this Application.

Submitting thus, the learned counsel appearing for the Applicant prayed that the reliefs in the form of waivers/ concessions as sought for, may be granted as they are imperative for the Applicant to take the Corporate Debtor as a going concern.

3. To buttress his submissions on claiming the reliefs, the learned counsel for the Applicant placed reliance on the order of Hon'ble Tribunal, dated 30.06.2021, in the matter of *Vishwa Infrastructure Finance & Services Pvt. Ltd.* and the order of the NCLT, Mumbai Bench, in the matter of *Topworth Pipes & Tubes Pvt Ltd.*

4. We have heard Mr. Amir Bavani, the learned counsel for the Applicant.
5. The sale of business and assets of the Corporate Debtor as a going concern, is consistent to the objectives of the Code, 2016. Having heard the learned counsels for the parties and on a perusal of the record, we are of the considered view that since the Corporate Debtor has been sold as a going concern, the reliefs sought for in the form of waivers and concessions, by the Applicant can be granted for the smooth transition of the Corporate Debtor and continuation of the business by the Applicant.
6. We, therefore, grant the waivers and concessions sought for, as follows:

Sl. No.	Relief Sought	Observations
a.	Clearance from the secured financial creditors and filing of satisfaction of charge by them.	The financial creditors are to be paid from the liquidation proceeds and the successful bidder is not to be saddled with liabilities prior to the Effective Date.
b.	Relief from all claims, liabilities, obligations or guarantees from the books or out of books of the Corporate Debtor.	Granted, since it is sale as a going concern, the successful bidder is not to be saddled with the

		liabilities prior to the Effective Date.
c.	Existing Share Capital shall extinguish without any payment to the present/existing shareholders. The amount bid by the bidder, towards the purchase consideration of acquiring the Corporate Debtor as a going concern, shall be considered as paid-up capital share capital.	Granted.
d.	The present directors shall submit their resignations and new directors as proposed by the bidder may be taken on the Board of Directors and necessary papers be filed with the Registrar of Companies ('ROC').	Granted. The requisite filings with the concerned RoC shall be made.
e.	The ROC shall waive off all penalties for non-compliances by the erstwhile management and to allow the new management to file the old records such as Balance Sheets, Annual Reports, Other Returns etc. without any penalty.	Granted.
f.	All approvals, licenses and benefits in the name of the Corporate Debtor, i.e., KRR Infra Projects Pvt. Ltd. shall continue with the new management	Granted.

	subject to payment of renewal fees without any penalties.	
g.	The new management shall not be responsible to any statutory liabilities outstanding as on the liquidation date which arise due to past deeds.	Granted.
h.	The management shall be eligible for any loses as per Income Tax Act to offset against the further profits.	The successful bidder may approach the authority concerned, which shall consider such request under the relevant law, keeping in view the object and the spirit of the Code, 2016.
i.	The new management is entitled to get all the rights, title and interest whole and every part of the Corporate Debtor.	Granted.
j.	The assets mentioned in the e-auction process document shall vest with the new management of the Corporate Debtor.	Granted.
k.	Any proceedings pending against the Corporate Debtor (other than against the erstwhile promoters or former members of the management of the Corporate Debtor) as on date of liquidation with respect to its	Granted, since it is sale as a going concern, the successful bidder is not to be saddled with the

	liabilities, enquiries, investigations, assessments, claims, disputes, litigations etc. would not have any bearing against the bidder.	liabilities prior to the issue of the Effective Date.
l.	The existing share capital of the Corporate Debtor would stand cancelled without any consideration to the shareholders.	Granted.
m.	The board of the Corporate Debtor could be reconstituted, and necessary filings could be made with the RoC concerned.	Granted. The Company shall file all necessary forms and applications, along with applicable fee with the concerned Registrar of Companies, if required.
n.	The Registrar of Companies shall waive the penal charges, if any, for any non-compliance by the erstwhile Board, Resolution Professional and Liquidator, as the case may be, which shall include, but not limited to, the waiver of penalties under all applicable provisions of Companies Act, 2013, which provides for late fee charges, penalty, penal interest, etc.	Granted.
o.	Waiver of the past liabilities of the Corporate Debtor in inquiries,	

	investigations, assessments, notices, causes of action, suits, claims, disputes, litigations, arbitration or other judicial, regulatory or administrative proceedings against or in relation to, or in connection with the Corporate Debtor prior to the date of the judgment.	Granted, since it is sale as a going concern, the successful bidder is not to be saddled with the liabilities prior to the issue of the Effective Date.
p.	The non-compliance of provisions of any of the laws, rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions, prior to the date of acquisition, stands extinguished qua the bidder.	Granted.
q.	The new management shall not be liable for any payment arising out of the contingent liabilities on account of bank guarantees.	Granted.
r.	In case of non-maintenance of requisite record or non-filing of the returns by the Corporate Debtor, which has resulted in lapsing/ ineligibility of the said benefits, under the new GST regime, benefits to be available on retrospective basis/reinstated, without fees/penalties	The successful bidder may approach the authority concerned, which shall consider such request under the relevant law, keeping in view the object and the spirit of the Code, 2016.

7. The instant Application is disposed of, in terms of the directions made hereinabove.

-Sd-

(Satya Ranjan Prasad)
Member, Technical

-Sd-

(Dr. N.V. Ramakrishna Badarinath)
Member, Judicial