

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
05-07-2024 AT 10:30 AM**

**Company Petition IB/107/2021
AND
IA(IBC) 782/2024 in Company Petition IB/107/2021
u/s. 7 of IBC, 2016**

IN THE MATTER OF:

Vemuri Ravi Kumar

...Financial Creditor

AND

Bhriugu Infra Pvt Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

O R D E R

IA(IBC) 782/2024

Order.

This application is filed for the following reliefs:

“To pass an order granting leave to this applicant to proceed further against the transactions mentioned in the application to initiate appropriate legal action for recovery of the amounts along with interest against the amounts transferred by the corporate debtor without any base.

Section 35 of Insolvency and Bankruptcy Code, 2016 deals with the powers and duties of the liquidator which is as below:

35. Powers and duties of liquidator:-

(1) Subject to the directions of the Adjudicating Authority, the liquidator shall have the following powers and duties, namely:—

(a) to verify claims of all the creditors;

- (b) to take into his custody or control all the assets, property, effects and actionable claims of the corporate debtor;*
- (c) to evaluate the assets and property of the corporate debtor in the manner as may be specified by the Board and prepare a report;*
- (d) to take such measures to protect and preserve the assets and properties of the corporate debtor as he considers necessary;*
- (e) to carry on the business of the corporate debtor for its beneficial liquidation as he considers necessary;*
- (f) subject to section 52, to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified;*
- (g) to draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the corporate debtor, with the same effect with respect to the liability as if such instruments were drawn, accepted, made or endorsed by or on behalf of the corporate debtor in the ordinary course of its business;*
- (h) to take out, in his official name, letter of administration to any deceased contributory and to do in his official name any other act necessary for obtaining payment of any money due and payable from a contributory or his estate which cannot be ordinarily done in the name of the corporate debtor, and in all such cases, the money due and payable shall, for the purpose of enabling the liquidator to take out the letter of administration or recover the money, be deemed to be due to the liquidator himself;*
- (i) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities;*
- (j) to invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Code;*
- (k) to institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of or on behalf of the corporate debtor;*
- (l) to investigate the financial affairs of the corporate debtor to determine undervalued or preferential transactions;*
- (m) to take all such actions, steps, or to sign, execute and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as liquidator;*
- (n) to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor and to*

report the progress of the liquidation process in a manner as may be specified by the Board; and

(o) to perform such other functions as may be specified by the Board.

(2) The liquidator shall have the power to consult any of the stakeholders entitled to a distribution of proceeds under section 53: Provided that any such consultation shall not be binding on the liquidator: Provided further that the records of any such consultation shall be made available to all other stakeholders not so consulted, in a manner specified by the Board.

Thus, it is clear from the above provision that the liquidator is entitled to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor.

It is found that the stakeholders consultative committee, taking into consideration the facts and circumstances and in the interest of liquidation of the corporate debtor advised the applicant/liquidator to seek leave of this Tribunal, for initiating proper legal action against the respective parties.

In the light of the resolution of the stakeholders consultative committee, the Liquidator seeks leave to initiate legal proceedings against the parties who have indulged in illegal transfer of amount. We therefore, find no reason to reject the prayer. Hence, this application is allowed. Leave to proceed in accordance with clauses (k), (l), & (m) of Section 35 of Insolvency and Bankruptcy Code, 2016, 2016 to the liquidator is hereby granted to the liquidator.

Accordingly, **this application is allowed and disposed of.**

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)