SL. No.121

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

(Physical Hearing)

CORAM: JUSTICE (retd.) TELAPROLU RAJANI – HON'BLE MEMBER (JUDICIAL)
CORAM: SHRI CHARAN SINGH , HON'BLE MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 05.12.2022 AT 02:30 PM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/122/2022 in CP (IB) No.562/9/HDB/2019
NAME OF THE COMPANY	Midfield Industries Ltd
NAME OF THE PETITIONER(S)	Loha Udyog
NAME OF THE RESPONDENT(S)	Midfield Industries Ltd
UNDER SECTION	9 of IBC

ORDER

Learned Counsel for the RP appeared via video conference.

For Orders on 06.12.2022.

Sd/-

Sd/-

MEMBER (TECHNICAL)

MEMBER (JUDICIAL)

Syamala

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

I.A. No. 122 of 2022 in
C.P. (IB) No.562/9/HDB/2019
Under Section 33(2) of the IB Code, 2016.

In the matter of
M/S MIDFIELD INDUSTRIES LTD.

Madasa Kumar,
Resolution Professional of
M/S Midfield Industries Ltd.,
4th Floor, Plot No. 48, Petbasheerabad Village,
Quthbullapur Mandal, Medchal-Malkajgiri District,
Telangana – 500069.

...Applicant

Date of Order: 06.12.2022

Coram:

Justice Telaprolu Rajani, Member, Judicial

Sri Charan Singh, Member, Technical

Counsel present:

For the Financial Creditor: Mr. Madasa Kumar, Resolution Professional

Sd/- Sd/-

Per : Bench

ORDER

1. This Interlocutory Application is filed by the Resolution Professional (hereinafter referred to as the "Applicant") of M/S Midfield Industries Limited (hereinafter referred to as the "Corporate Debtor"), under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code, 2016"), praying for an order to liquidate the Corporate Debtor and to appoint the Applicant as the Liquidator to administer the liquidation of process of the Corporate Debtor.

2. Briefly, the facts of the case, are as follows:

   a) Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") had been initiated against the Corporate Debtor, vide order of this Tribunal, dated 27.08.2021 in C.P. (IB) No. 562/9/HDB/2019 and the Applicant was appointed as the Resolution Professional, vide order dated 12.11.2021.

   b) Subsequent to its constitution, the Committee of Creditors (hereinafter referred to as the "CoC"), in its meeting, dated 08.11.2021, approved the minimum eligibility criteria for prospective Resolution Applicants and pursuantly, Form – G, inviting the Expression of Interest (hereinafter referred to as the "EoI"), was published on 12.11.2019, in compliance with Regulation 36A(1) of the IBBI (Resolution Process for Corporate

Sd/- Sd/-

Persons) Regulations, 2016 (hereinafter referred to as the "CIRP Regulations"), inviting prospective Resolution Applicants to submit their EoIs before 08.01.2022. In response, one EoI was received.

c) However, the prospective Resolution Applicant did not ultimately submit its Resolution Plan and the CoC, with a 69.32% majority, voted in favour of liquidating the Corporate Debtor as it was felt that there is no possibility of receiving Resolution Plans because the Company has been defunct since 2012.

d) Since there is no unit existing, the CoC felt that there is no possibility of sale of the Corporate Debtor as a going concern or the sale of business of the Corporate Debtor as a going concern, as per Regulation 39C of the Liquidation Regulations, 2016. Hence, the CoC preferred sale of assets of the Corporate Debtor, under Regulation 32 (a) to (d) of the Liquidation Regulations, 2016.

e) The Corporate Debtor owns a plot of land admeasuring 990 sq. mtrs. and building constructed thereon, located at Bantakhedi Village, Hardwardhar District, Uttarakhand.

Hence, the instant Application has been preferred seeking directions to liquidate the Corporate Debtor.

3. We have heard the learned Resolution Professional and perused the record.

4. It has been stated that the main unit of the Corporate Debtor has been sold by the State Bank of India, which is a financial creditor of the Corporate Debtor and that the Company has not been in operation since 2012.

5. Since there is no Resolution Plan that has been received, there is no option except to put the Corporate Debtor into Liquidation as per the Code, 2016. Since the CoC, in its commercial wisdom, has, with the required mandate, approved the liquidation of the Corporate Debtor in view of not receiving any Resolution Plans, it is prudent to allow the instant Application and permit the liquidation of the Corporate Debtor.

6. 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 Code, 2016, we pass the order as follows:

   (i) This Adjudicating Authority, hereby, orders for liquidation of the Corporate Debtor, which shall be conducted in the manner as laid down in Chapter III of part II of the Code, 2016;

   (ii) This Adjudicating Authority, hereby, appoints the Applicant, Mr. Madasa Kumar, having Registration No. IBBI/IPA-001/IP-P01590/2019-2020/12465, R/o 4th Floor, Plot No. 48, Petbasheerabad Village, Quthbullapur Mandal, Medchal-Malkajgiri District, Telangana – 500069, as the Liquidator of the Corporate Debtor.He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;

Sd/- Sd/-

(iii) The moratorium declared under Section 14 of the Code, 2016, shall cease to have effect from the date of the order of Liquidation;

(iv) Subject to Section 52 of the 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.

(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. In addition to this, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Code, 2016, read with the 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 be entitled to charge such fee for conducting the Liquidation proceedings in accordance with Regulation 4(2) of IBBI (Liquidation Process) Regulations, 2016.

(x) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, registered office of the Corporate Debtor and the Liquidator, for information and compliance.

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

5. Accordingly, this Application stands disposed of.

-Sd/-

(Charan Singh)
Member, Technical

Sd/-

(Justice Telaprolu Rajani)
Member, Judicial