



SL. No.2

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

(PHYSICAL HEARING)

**CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)
CORAM: SHRI.CHARAN SINGH - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 05.06.2023 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/522/2022 in CP (IB)No.813/7/HDB/2019
NAME OF THE COMPANY	KSK Water Infrastructures Pvt Ltd
NAME OF THE PETITIONER(S)	Punjab National Bank
NAME OF THE RESPONDENT(S)	KSK Water Infrastructures Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

IA (IBC)/522/2022

This application is allowed, vide separate orders.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

IA No.522 of 2022
in CP(IB) No. 813/7/HDB/2019
Under Section 60(5) of IBC, 2016

In the matter of:

Mr. V. Venkatachalam,
Resolution Professional of
M/s. KSK Water Infrastructures Pvt. Ltd.,
R/o. 12-13-205, Street No.2, Tarnaka,
Secunderabad – 500 017.

.... Applicant /
Resolution Professional

In the matter of:

Punjab National Bank

....Financial Creditor

Vs.

M/s. KSK Water Infrastructures Pvt. Ltd.,
8-1-293/82/A/431/A, Road No.22,
Jubilee Hills,
Hyderabad – 500 033.

....Corporate Debtor

Date of order: 05.06.2023

CORAM:

Hon'ble Justice Smt. Telaprolu Rajani, Member (Judicial)

Hon'ble Sri Charan Singh, Member (Technical)

Counsels present:

For the Applicant : Mr. Y. Suryanarayana, Advocate

Heard on : 31.05.2023



[PER: BENCH]
ORDER

1. This application is filed by the Resolution Professional (RP) of the Corporate Debtor (CD) M/s. KSK Water Infrastructures Private Limited under Section 60(5) of the Insolvency and Bankruptcy Code (IBC), 2016 read with Rule 11 of the National Company Law Tribunal (NCLT) Rules, 2016, seeking directions from this Tribunal to permit the RP to re-open the bidding process for the CD in order to invite and consider Expression of Interests (EoIs) from the Consortium of Power Finance Corporation Ltd (PFC), REC Limited (REC) and NTPC Limited (NTPC) in order to maximise the value and to complete the Corporate Insolvency Resolution Process (CIRP) of CD which is coming to an end by 07.07.2022. The CoC has approved for filing this application.
2. The grounds on which, the above mentioned relief is sought for are as follows:
 - a. By an Order dated 01.01.2021, this Tribunal initiated CIRP against the CD. The Order was received on 07.01.2021 by the RP. In the 3rd meeting conducted on 25.03.2021, the CoC approved the appointment of the RP by replacing the erstwhile IRP. The Applicant published Form G inviting EoIs from Prospective



Resolution Applicants (PRAs) on 23.08.2021, fixing the cut-off date as 07.09.2021. The Applicant received 9 EoIs from PRAs. Thereafter, in compliance with the Code and Regulation 36A of the CIRP Regulations, the Applicant prepared the list of PRAs. Before preparing the said list, the Applicant issued the information memorandum, evaluation matrix and a request for resolution plans as per Regulation 36B of the CIRP Regulations.

- b. Post CIRP, certain disputes arose between the CD and M/s. KSK Mahanadi Power Company Ltd (KMPCL) in relation to the commercial arrangement between the parties for rendering transportation services by the CD to KMPCL. On 17.06.2021, this Tribunal in IA. No.270 of 2021 passed an Order, directing KMPCL to pay for the services provided by the CD in terms of the Agreement and the Invoices raised which was challenged before the Hon'ble NCLAT, Chennai and the NCLAT affirmed the order of this Tribunal. Civil Appeals were preferred before the Hon'ble Supreme Court which are pending for adjudication.
- c. Since, KMPCL is the sole customer of the CD, the business of the CD depends on the implementation of the commercial terms under the Agreement executed between KMPCL and the CD. However, given the fact that there are disputes relating to the Agreement, the



PRAs wrote to the RP of the CD seeking extension of time to submit their bids. Till such time, as the PRAs have no clarity on the eventual outcome of the disputes between KMPCL and the CD, they are unable to submit a commercially feasible and viable Resolution Plan for value maximization for the stakeholders of the CD. As on date, Resolution Plans were received from 9 PRAs.

- d. In this background, it is pertinent to note that on 22.04.2022, the Applicant received an email along with joint request letter dated 21.04.2022 from the Consortium, requesting permission to submit EoIs and participate in the bidding process of the CD and M/s. Raigarh Champa Rail Infrastructure Private Limited (RCRIPL).
- e. The business of KMPCL, CD and RCRIPL are interlinked and co-dependent and they are interested in bidding for all three CDs as a common Resolution Applicant in order to benefit the stakeholders of all three entities.
- f. On receipt of the joint request letter and email, the Applicant forthwith apprised the CoC. The CoC was of the opinion that due to the fact that the cut-off date for submission of the EoI ended on 07.09.2021 and as neither the name of the Consortium nor its individual member companies was in the final list of PRAs, the request for submission of EoI for submission of Resolution Plan



could not be allowed by the CoC or the RP in light of the Code and the CIRP Regulations. Hence, the CoC resolved to direct the Applicant to file this application and the allowing of this application would help in increasing the value of the CD. On the above grounds, the Applicant sought to extend the time for receiving the EoIs.

3. Heard the Counsel appearing for the Applicant and perused the written submissions filed by the Counsel for the Applicant. The written submissions are nothing but reiteration of the facts mentioned in the Application.
4. The Regulation 36A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 deals with the invitation for EoI. Under Clause (6) of the said provision, the EoI received after the time specified in the invitation under Clause (b) of sub-regulation (3) shall be rejected.
5. The Counsel for the Applicant submits that though the IBC does not provide for extension of timelines for receiving EoIs by the RP, the Adjudicating Authority, in the interest of justice and in order to aid in maximising the assets of the CD, can extend the timelines by



invoking the inherent power under Rule 11 of the NCLT Rules, 2016.

6. A perusal of the Application would show that there are cogent reasons seeking for extension of timelines for receiving the EoIs. Due to the litigations that were pending, the EoIs could not be finalised. Hence, we opine that it would be in the interest of justice that the timelines for receiving EoIs be extended. In the result, the application is allowed and the timeline for receiving the EoIs from the Consortium of PFC, REC and NTPC is extended for two(2) months from the date of this order i.e. 04.08.2023.

Sd/-
(CHARAN SINGH)
MEMBER (TECHNICAL)

Sd/-
(JUSTICE TELAPROLU RAJANI)
MEMBER (JUDICIAL)

VL