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**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD**

SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)

**PRESENT: HON'BLE SHRIMADAN BHALCHANDRA GOSAVI- MEMBER JUDICIAL  
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 30.06.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 1185/2020 in CP (IB) No. 529/7/HDB/2018
NAME OF THE COMPANY	Lanco Vidarbha Thermal Power Ltd
NAME OF THE PETITIONER(S)	Punjab National Bank
NAME OF THE RESPONDENT(S)	Lanco Vidarbha Thermal Power Ltd
UNDER SECTION	7 of IBC

**Counsel for Petitioner(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**Counsel for Respondent(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**ORDER**

IA No. 1185/2020 is allowed vide separate sheets.

  
**(VEERA BRAHMA RAO AREKAPUDI)**  
**MEMBER (TECHNICAL)**

  
**(MADAN B GOSAVI)**  
**MEMBER (JUDICIAL)**

IA No. 1185/2020  
In  
CP (IB) No. 529/7/HDB/2018

**IN THE NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD  
BENCH-1, HYDERABAD**

**IA No. 1185/2020  
In CP (IB) No.529/7/HDB/2018**

Application under Section 33(2) read with Section 34(1) of  
the Insolvency and Bankruptcy Code, 2016

**In the matter of M/s Lanco Vidarbha Thermal Power Limited**

**Filed by**

Mr. Vijay Kumar Garg  
Resolution Professional of M/s Lanco Vidarbha Thermal Power Limited  
Plot No. 4, Software Units Layout,  
HITECH City, Madhapur,  
Hyderabad – 500081  
Telangana.

...Applicant/  
Resolution Professional

**Date of order: 30/06/2021**

**Coram**

Hon'ble Shri Madan Bhalchandra Gosavi, Member (Judicial)  
Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

**Parties/ Counsels present:**

For the Applicant : P Ravi Charan, Advocate along with Ms. Niharika  
Agarwal, Advocate.

**Heard on: 16/06/2021.**

SD/-

SD/-



**PER: SHRI MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)**

**ORDER**

1. This is an Application by the Resolution Professional under Section 33 (2) AND 34 (1) of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as **Code**) seeking orders for liquidation of M/s Lanco Vidarbha Thermal Power Limited/Corporate Debtor.
2. This Tribunal vide order dated 03.10.2019 admitted the petition bearing CP (IB) No. 529/7/HDB/2018 under Section 7 of the Code initiating Corporate Insolvency Resolution Process (CIRP) of the Company. Shri Vijay Kumar Garg, the Applicant herein is appointed as Resolution Professional. The Applicant presented Form G and minimum eligibility for inviting expression of interest (**EoIs**) for submission of resolution plans by eligible resolution applicants before the CoC in 2<sup>nd</sup> meeting and the same is approved with 92.98%.
3. The Applicant received EoIs from 3 persons/ entities based on the eligibility criteria set out in invitation of EoIs. In the fourth CoC meeting held on 03/02/2020, it was noted as the three of them are qualified prospective applicants/ qualified bidders for participating in the resolution plan process of the Corporate Debtor. The 2 of the qualified prospective bidders expressed their demand to the Applicant vides e-mail dated 13/03/2020 & 16/03/2020 for the extension of the last date for submission of the resolution plans.

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The CoC extended the time for submission of resolution Plans in 5<sup>th</sup> CoC meeting.

4. The Applicant filed an application before this Tribunal for extension of CIRP period by 90 days and exclusion of lockdown period from 25/03/2020 till continuance of lockdown. This Tribunal granted 90 days extension of CIRP period with effect from 31/03/2020. Subsequently, the applicant was directed to file separate application for exclusion of lockdown period from the CIRP Process once the lockdown is lifted.
5. The Applicant received an e-mail from one of the PRA i.e., Prudent ARC dated 04/09/2020 requesting time for another three weeks for the submission of Resolution Plan. Hence, in the 9<sup>th</sup> CoC meeting with 81.90% voting the members of CoC agreed for extension of 3 weeks.
6. The Applicant filed application before this Tribunal for exclusion of lockdown period of 160 days i.e., 25/03/2020 to 31/08/2020 and this Tribunal granted exclusion of 160 days.
7. In the 12<sup>th</sup> CoC meeting the CoC members were of the view that the resolution plan submitted by the PRA was not in compliance with the terms and conditions of the Request for Resolution Plan (RFRP) and accordingly, it was considered as non-responsive by the CoC members and hence, it is decided not to open and evaluate such resolution plan. Therefore, no acceptable plan for resolution of the Corporate Debtor has been received.

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8. The 13<sup>th</sup> meeting held on 10.11.2020, the CoC members voted in favour of liquidation of the Company by a vote of 88.03% and resolved to seek liquidation of the Corporate Debtor and to appoint the Applicant herein, the RP as Liquidator of the Corporate Debtor.
9. We have heard the Applicant in the matter. The Hon'ble Apex Court in K. Sashidhar vs. Indian Overseas Bank and Ors (2019) 148 LA 497 (SC) inter-alia held that,
- "The Adjudicating Authority (NCLT) is not expected to do anything more; but is obligated to initiate liquidation process under Section 33 (1) of I&B Code. The legislature has not endowed the adjudicating authority (NCLT) with the jurisdiction or authority to analyse or evaluate the commercial decision of the CoC much less to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors".**
10. From the above, it would appear that despite all possible steps as required under the Code taken during the CIRP, the CoC did not receive any viable resolution plan/proposal for revival of the Company. The CoC in its wisdom has resolved with 88.03% voting share in favour of the liquidation of the Company. This Authority has no reason before it to take a contrary view in terms of Section 33 (1) (a) of the Code. Therefore, we have no option than to pass an order for liquidation of the Company in the manner laid down in Chapter-III of the Code.

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**ORDER**

11. The Application is accordingly allowed with the following directions:-

- a) The Corporate Person i.e., M/s Lanco Vidarbha Thermal Power Limited shall be liquidated in the manner laid down in Chapter-III of the Code.
- b) The Applicant Mr. Vijay Kumar Garg, presently RP of M/s Lanco Vidarbha Thermal Power Limited is appointed as Liquidator.
- c) He shall issue public announcement stating that the Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the code shall cease to operate here from.
- e) Subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however 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.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the

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Code, read with Insolvency & Bankruptcy Board of India  
(Liquidation Process) Regulations, 2016.

- h) Personnel connected with the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as would be required for managing its affairs.
- i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.



**VEERA BRAHMA RAO AREKAPUDI**  
**MEMBER (TECHNICAL)**



**MADAN BHALCHANDRA GOSAVI**  
**MEMBER (JUDICIAL)**