

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

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 26.04.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/116/2021 in CP(IB) No.662/7/HDB/2019
NAME OF THE COMPANY	Solar Semiconductor Energy (India) Pvt Ltd
NAME OF THE PETITIONER(S)	Orix Leasing and Financial Services India Ltd
NAME OF THE RESPONDENT(S)	Solar Semiconductor Energy (India) Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

IA (IBC)/116/2021

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

I.A. No.116 of 2021 in
C.P. (IB) No. 662/7/HDB/2019
u/s. 33(1)(a) of IBC 2016

In the matter of :

M/S. SOLAR SEMICONDUCTOR ENERGY SYSTEMS (INDIA)
PRIVATE LIMITED

Mr. Murali Prasad Nalam,
Resolution Professional of
M/s. Solar Semiconductor Energy Systems
(India) Private Limited,
Villa 67, Road No.3, Dollar Meadows,
Near DRK College of Engineering, Bowrampet,
Hyderabad – 500 043.

....Applicant

Date of Order : 26.04.2024

Coram:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Counsel present:

For the Applicant : Ms. Mano Ranjani, Advocate

Heard on : 18.04.2024

Per : Bench

ORDER

1. This is an Application filed by the Resolution Professional under Section 33(1)(a) of the Insolvency and Bankruptcy Code 2016, seeking Orders for Liquidation of the Corporate Debtor (CD) **M/S. SOLAR SEMICONDUCTOR ENERGY SYSTEMS (INDIA) PRIVATE LIMITED.**

Brief facts of the Application:

2. The CD was admitted into Corporate Insolvency Resolution Process (**CIRP**) by this Tribunal vide Order dated 19.03.2020 and the Applicant herein was appointed as Interim Resolution Professional (IRP). Pursuant to which, the IRP issued public announcement on 26.08.2020 in Form-A through daily newspapers inviting claims from the creditors of the CD, and received claims from the creditors of the CD as detailed below:

Name of the Creditor	Amount claimed (Rs.)	Amount admitted (Rs.)
Karur Vysya Bank * Financial Creditor	1,70,000	1,53,000
Reliance Commercial Finance Limited Financial Creditor	3,20,27,162	3,20,27,162
Orix Leasing & Financial Services India Ltd Financial Creditor	1,35,42,577	1,05,96,714
CTO Audit Bangalore Operational Creditor	39,84,024	39,84,024

* Later, the Suspended Directors of the CD personally paid to Karur Vysya Bank and closed their vehicle loan account.

3. The CoC during its first meeting held on 23.09.2020 appointed the Applicant IRP as Resolution Professional (**RP**). Subsequently, the RP prepared the Information Memorandum and appointed the Registered Valuers, but due to non-receipt of assets by the RP, the valuation assignment was not carried out, and consequently the Invitation for Expression of Interest (EoI) was not issued. Later, the RP filed an Application No. 823 under sections 19(2) and 60(5) of the Code regarding the lack of cooperation from the Suspended Directors. Despite the ongoing legal process, the core assets i.e. the Plant and Machinery were not handed over by the Suspended Board to the RP, except a Maruti Ritz Car which was handed over to RP.

4. It is submitted that, due to the suspicious nature of the CD's Bank statements and the absence of significant sale and purchase transactions, the RP appointed M/s JLN US & Co., Chartered Accountants, to conduct Forensic and Fraud Detection Audit (FAFD) and the audit was conducted by Mr. Sunil Kumar Kabra for the period from 01.04.2016 to 24.08.2020 (CIRP date).

Forensic and Fraud Detection Audit (FAFD):

5. It is averred that, as mentioned in the Audit Report (not enclosed along with the application), the Suspended Board has not cooperated with the auditors and not shared the required information and explanations, and below are the key observations of the Forensic Auditor:
- a. That related party transactions were done by the company and also that the company made the accommodation entries.
 - b. That they have not been provided with the supporting documents and books of accounts of the company.
 - c. That they tried to communicate with the suspended directors of the company through electronic media (email) etc and that though the suspended directors have acknowledged the receipt of the mail, they have not shared any of the information asked for.
 - d. That looking into the circumstances, the transactions might have been entered by the Corporate Debtor with an intention to defraud the creditors of the company.
 - e. That the fraudulent or wrongful trading and the fictitious sale entries were made by the company with related parties.
 - f. That circular transactions were made by the company which seem to be fictitious in nature and executed in such a manner that it may have resulted in booking fictitious purchase/sale in the books resulting in wrongful trading to defraud the creditors of the company.

6. It is submitted that, during the 9th CoC meeting¹ held on 04.02.2021, the CoC resolved with 100% voting, to make necessary application before this Tribunal for liquidation of the CD and to continue the Applicant RP as the Liquidator, and also to file individual applications for concealment of machinery and for PUFEE (Preferential Undervalued, Fraud and Extortionate) transactions. Accordingly the RP has filed two individual applications before this Tribunal on 16.02.2021. Further submitted that, the CIRP period of 180 days will be completed on 20.02.2021 and the CoC decided not to apply for extension of CIRP period.
7. It is submitted that, the Applicant RP has given his consent² to act as the Liquidator for the CD M/s Solar Semiconductor Energy Systems (India) Private Limited.
8. It is averred that, due to non- receipt of CD's assets by the RP, no Invitation for EoI is made, as such no Resolution Plan is made available. Hence, with the approval of CoC in its 9th meeting, the RP is filling this application, praying for Liquidation Order u/s 33(1)(a), and to appoint the Resolution Professional as Liquidator u/s 34(1) of IBC, 2016.

Decision:

9. We have heard the Learned RP and perused the records.
10. As no assets of the CD have been handed over to the RP, therefore no viable Resolution Plan is envisaged. Hence, this Adjudicating Authority deems it proper to allow this Application. Accordingly, in exercise of powers conferred under Sub-Clause (i), (ii) and (iii)

¹ Pg 10-12 of the application.

² Pg 13 of the application.

of Clause (b) of Sub-Section (1) of Section 33 of the IBC 2016, we proceed to pass the Order as follows:

ORDER

- a. Liquidation of **M/S. SOLAR SEMICONDUCTOR ENERGY SYSTEMS (INDIA) PRIVATE LIMITED**, shall be conducted in the manner as laid down in Chapter III of Part II of the IBC, 2016.
- b. **Mr. Murali Prasad Nalam³ is appointed as Liquidator** as resolved by CoC.
- c. The Liquidator shall issue public announcement stating that Corporate Debtor is in Liquidation.
- d. The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- e. Subject to section 52 of the IBC 2016 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.

³ Having Registration No. IBBI/IPA-001/IP-P00933/2017-2018/11537, Villa 67, Road 3, Dollar Meadows, Ambitus School Road, Near DRK Engineering College, Bowrampet ,Hyderabad,Telangana ,500043, email : murali.advice@gmail.com

- g. The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h. Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will 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.
- j. 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.
- k. Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Telangana, the Registered Office of the Corporate Debtor; and the Liquidator.

With the above directions, this Application is allowed and stands disposed of.

Sd/-
(SANJAY PURI)
MEMBER (TECHNICAL)

Sd/-
(RAJEEV BHARDWAJ)
MEMBER (JUDICIAL)

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