



SL. No.2

**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 19.08.2025 at 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/1025/2024 in Company Petition IB/320/2021
NAME OF THE COMPANY	Srikanth International Pvt Ltd
NAME OF THE PETITIONER(S)	Pattabi Enterprises
NAME OF THE RESPONDENT(S)	Srikanth International Pvt Ltd
UNDER SECTION	9 of IBC

ORDER

IA (IBC)/1025/2024

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**

**IA No. 1025 of 2024 in
CP(IB) No.320/9/HDB/2021**

In the matter of:

M/s. Srikanth International Private Limited

Between:

State Bank of India,

SBI, Stressed Assets Management Branch - I
(SAMB-I) 5-9-76, 2nd & 3rd Floor,
Prabhat Towers, Opp. Amaravathi LHO,
Chapel Road, Gunfoundry, Hyderabad,
Rep by, Mr. C. Ravi Sankar Assistant General Manager,

... Applicant/

AND

1. M/s. Summit Marine Exports Pvt Ltd

Represented by Sri. Alluring Chola Varma,
At G-1, Maharaja Towers,
ASR Nagar, Bhimavaram,
Andhra Pradesh-534502

**...Respondent No 1/Successful
Resolution Applicant**

2. Shri Immaneni Eswara Rao

Erstwhile Resolution Professional and
present Chairman of the monitoring committee of
M/s. Srikanth International Private Limited
At 1-30-238/163, Telecom Colony,
Kanajiguda, Hyderabad, Telangana - 500015

Also at 40-26-22, Mohiddin Street
Opp BSNL Exchange, Labbipeta,
MG Road, Vijayawada, Krishna,
Andhra Pradesh, 520010

...Respondent No 2/Resolution Professional

3. M/s. Srikanth International Private Limited,

1-30-238/163, Telecom Colony,
Kanajiguda, Hyderabad, Telangana - 500015.

**...Respondent No 3/Corporate Debtor
Date of order: 19.08.2025**

CORAM:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Shri Sanjay Puri, Hon'ble Member (Technical)

Counsels present:

For the Applicant : Mr. GP Yash Vardhan and Mr. G. Srikanth

For Respondent No.1 & 3 : Mr. Y. Suryanarayana

Per: BENCH

ORDER

1. This application has been filed by the State Bank of India (**Sole Secured Financial Creditor/Applicant**) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (**IBC**). The Applicant seeks a direction to the Successful Resolution Applicant (**Respondent No. 1/SRA**) to pay the lease amount arising out of the Lease Agreement dated 19.12.2020 and the Memorandum of Understanding dated 01.02.2021, entered into with M/s Srikanth International Private Limited (**Corporate Debtor**), to the tune of Rs 74,56,673/- for the period from 01.08.2023 to 13.10.2023.

Application

2. The Corporate Debtor, engaged in the business of shrimp processing and allied activities, had availed financial assistance of Rs 33.50 Crores from the Applicant/Financial Creditor as on 17.10.2020. To secure the said financial assistance, the Corporate Debtor offered its Marine Processing Plant, admeasuring Ac. 3060 cents (17,424 sq. yds.), situated at Someswaram Village, Alapadu Panchayat, Kaikaluru Mandal, Krishna District, as security.
3. Pursuant thereto, a Lease Agreement dated 19.12.2020 was executed between Respondent No. 1 and the Corporate Debtor, whereby the

premises of the Corporate Debtor was leased to Respondent No. 1 for marine processing purposes, for a period of six (6) years commencing from 01.02.2021 till 31.01.2027, at a monthly lease rental of Rs 2,00,000/-, with an annual escalation of 5%, payable directly into the SBI CC Account No. 00000034840123025.

4. Subsequently, on 01.02.2021, a Memorandum of Understanding was executed between Respondent No. 1 and the Corporate Debtor, under which Respondent No. 1 agreed to pay a flat processing fee of Rs 43,00,000/- per month, exclusive of GST and TDS, with an annual increment of 5%, to be credited into the aforesaid SBI account of the Applicant Financial Creditor.
5. It is stated that the lease rentals and processing fees were credited into the designated account until June 2022 and were duly adjusted against the dues payable by the Corporate Debtor to the Applicant Financial Creditor.
6. On account of the default in repayment of the loan by the Corporate Debtor, the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor by this Tribunal vide order dated 30.06.2022, and Mr. Mayur Rajendra Kumar Popat was appointed as the Interim Resolution Professional. Thereafter, Respondent No. 2 was appointed as the Resolution Professional.
7. In compliance with the provisions of the IBC, a designated account was opened by the RP in the name of the Corporate Debtor with the Applicant FC bearing account no. 41345642963, and lease payments were credited therein till July 2023.
8. The CoC, in its 13th meeting held on 04.08.2023, approved the Resolution Plan submitted by Respondent No. 1 for an amount of Rs. 50 Crores, and the same was unconditionally accepted by Respondent No. 1 vide letter dated 12.08.2023. The Resolution Plan was approved by this Tribunal vide order dated 13.10.2023.

9. The claim of Applicant FC, amounting to Rs. 44,28,03,456/-, was admitted by the RP and satisfied under the approved Resolution Plan. However, it is contended that lease rentals for the period from 01.08.2023 to 13.10.2023, aggregating to Rs. 74,56,673/-, remain unpaid.
10. In order to quantify the outstanding dues, the Applicant FC appointed BSRG & Associates, a firm of Chartered Accountants, who submitted a report stating that Respondent No. 1 had incurred expenses of Rs. 46,15,702/-, and the balance amount of Rs. 74,56,673/- is payable as lease rentals for the aforementioned period.
11. Despite repeated representations by the Applicant FC and discussion in the Monitoring Committee Meeting dated 28.12.2023, the outstanding lease payments were not cleared by Respondent No. 1. Further, emails dated 05.01.2024 and 08.01.2024 exchanged between the parties also indicate the pendency of the said dues.
12. The Respondent No. 1, in its email dated 31.10.2023, claimed that under the terms of the approved Resolution Plan, all balances remaining in the bank account of the Corporate Debtor as on the vesting date (i.e., 13.10.2023) would stand transferred to the Applicant FC, and those after the vesting date would stand vested with Respondent No. 1/SRA, and hence, it is not liable to pay the lease rentals. However, the Applicant FC disputes this interpretation.
13. The Applicant FC submits that the lease amounts claimed herein pertain to the CIRP period, i.e., prior to the vesting date (13.10.2023), and accordingly, are payable to the Applicant FC. The obligation to pay lease rentals during the CIRP continues until the date of approval of the Resolution Plan, and is not extinguished merely due to the change in legal status from lessee to Successful Resolution Applicant.

14. It is further submitted that Respondent No. 1 has executed an Affidavit and Indemnity¹ dated 08.01.2024 in favour of the Applicant FC, acknowledging the outstanding lease dues. In the said affidavit, Respondent No. 1 has specifically admitted that lease amounts for the months of August 2023 to October 2023 remain unpaid.
15. The rental obligations incurred during the CIRP period are not part of the Resolution Plan and do not qualify as CIRP costs. The payment of lease dues remains an independent contractual obligation, subsisting until the vesting date, and must be paid to the Applicant FC.
16. It is further submitted that there is no mention of the said unpaid lease amounts being included as CIRP costs in the Resolution Plan submitted by Respondent No. 1/SRA.
17. In light of the above facts, the present application has been filed seeking direction to Respondent No. 1 for payment of Rs. 74,56,673/- towards lease rentals due for the period from 01.08.2023 till 13.10.2023, in terms of the Lease Agreement dated 19.12.2020 and MoU dated 01.02.2021.

Counter (SRA and CD (Respondent Nos 1 and 3))

18. The Respondent No. 1 denied all the averments of the applicants and stated that they are baseless and without any legal tenability.
19. It is submitted that the Respondent No. 1, herein being the lessee of the property, continued to pay the lease rentals till July 2023. Thereafter, on 04.08.2023, the Resolution Plan submitted by the Respondent No. 1 was approved by the CoC (Applicant herein), and the Resolution Professional had filed the application for approval of the Resolution Plan by the Authority on 13.10.2023.
20. As per the terms of the Resolution Plan, the balance remaining in the bank account of the CD as on the Vesting Date (i.e. date of approval of

¹ Annexure No. 10

the plan by the Hon'ble Adjudicating Authority) shall be handed over to the financial creditor, and all balances after the Vesting Date shall belong to the Applicant herein.

21. It is submitted that Respondent No. 1, having acquired the Corporate Debtor, contends that any lease rentals for August to October, if paid now, would be received by the Corporate Debtor—now owned by the Respondent No. 1/SRA and that under the approved Resolution Plan, all balances in the Corporate Debtor's bank account after the vesting date belong to the Respondent No. 1/SRA.

22. It is submitted that the order dated 13.10.2023 passed by this Tribunal states as follows:

"19. iii. The dues to all financial creditors, to all workmen/employees, to all operational creditors (including statutory, electricity, excise, export, EPCG dues, etc.) and any other dues of the company whether acknowledged or not, admitted or not or otherwise, shall be deemed to be fixed to the amounts shown in the financial plan in Chapter VI of Resolution Plan. All and any other dues are deemed to be extinguished."

23. The Resolution Plan states that the amounts that are fixed under the financial plan under Chapter VI of the Resolution Plan are the only amounts payable by the Respondent No. 1/SRA, and all other amounts shall stand extinguished. Therefore, the contention of the Applicant FC that the lease rentals are pending and the same are payable by the Respondent No. 1/SRA to the Applicant FC herein is untenable.

24. The Respondent No 1/SRA has not paid the lease rentals as the payment at this stage would be a payment to itself, which is a futile exercise. Further, such rent is deemed to be extinguished in terms of the approved Resolution Plan.

25. It is submitted that, in terms of Section 31(1) of the IBC, a resolution plan is binding on all the stakeholders of the Corporate Debtor. Section 31(1) is reproduced hereunder:

(1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.

26. It is submitted by the Respondent No. 1 that it had offered Rs. 21 Crores to the Applicant FC on the assurance that the Resolution Plan would be approved within two months from 04.03.2023. However, the Applicant FC delayed approval until 04.08.2023, due to which Respondent No. 1 continued to incur lease obligations.
27. It is further submitted that during the period from 04.03.2023 to 13.10.2023, Respondent No. 1 paid Rs. 2.34 Crores towards lease rent, including Rs. 40 Lakhs disallowed by the CoC chaired by the Applicant FC. It is contended that these payments have already benefited the Applicant beyond its entitlement under the Resolution Plan.
28. Therefore, having received the revised final plan from the Respondent No.1 on 04.03.2023, the Applicant FC having accepted its entitlement under the Resolution Plan, the Applicant FC cannot go back and enhance its entitlement under "financial plan" in the Resolution Plan as approved by this Tribunal, by claiming the lease rentals for the

months of August to October 2023, as the same would not be in consonance with the Resolution Plan.

29. It is submitted that even as per the order dated 13.10.2023 approving the resolution plan furnished by the Respondent No.1, the fair value and the liquidation value of the Corporate Debtor are Rs. 10,31,03,327/- and Rs. 8,24,46,509/- respectively. The amount offered by the Respondent No.1 is more than twice that of the said fair value and liquidation value.
30. It is submitted that the Hon'ble Supreme Court in the matter of ***Ghanshyam Mishra & Sons Vs. Edelweiss Asset Reconstruction Company (Civil Appeal No. 8129 of 2019)*** held as follows:
- "A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor"
31. In view of the above facts and circumstances, the Respondent No 1 prays to dismiss the instant application as not maintainable either in law or on the facts.
32. Respondent No. 2/ Resolution Professional was set ex parte by this Authority vide order dated 22.10.2024.

Rejoinder

33. The Applicant FC denies every averment made in the Counter and puts Respondent Nos. 1 and 3 to strict proof thereof.
34. The Applicant FC reiterates that, as per the terms of the Resolution Plan, the balance remaining in the bank account of the Corporate Debtor as on the vesting date shall be handed over to the Applicant FC, and all balances after the vesting date shall belong to the

Respondent No. 1/SRA. Furthermore, it is stated that the Respondent No. 1/SRA paid lease rent only till July 2023 and failed to pay the outstanding lease rent for the period 01.08.2023 to 13.10.2023, which falls prior to the vesting date.

35. Respondent No. 1, in this case, held a dual capacity as lessee prior to the approval of the Resolution Plan and as SRA thereafter. In its capacity as lessee, Respondent No. 1 was obligated to discharge its liability to pay lease rent for the period preceding the approval of the Resolution Plan, i.e., up to 13.10.2023.
36. Additionally, Respondent No. 1, in its email dated 31.10.2023, has wrongly interpreted the Resolution Plan to claim all balances after the vesting date. The lease amounts sought pertain to the CIRP period, during which Respondent No. 1 remained lessee, and are payable irrespective of the vesting date or its later status as SRA.

Findings and Decision

37. Upon perusal of the pleadings and consideration of the submissions, it is noted that the Applicant, being the sole secured financial creditor, seeks payment of Rs 74,56,673/- towards lease rentals for the period 01.08.2023 to 13.10.2023, under a Lease Agreement dated 19.12.2020 and MoU dated 01.02.2021 with the Corporate Debtor.
38. During the CIRP, Respondent No.1 occupied the leased premises and paid rentals until July 2023 into the Corporate Debtor's designated account. The Resolution Plan was approved by the CoC on 04.08.2023 and by this Authority on 13.10.2023. Respondent No.1, in its Affidavit and Indemnity dated 08.01.2024, admitted that rentals for August–October 2023 remain unpaid.
39. The Insolvency Law Committee², in its Report dated 20.02.2020, considered two divergent views on the distribution of operating profits

² Ministry of Corporate Affairs: Report Of The Insolvency Law Committee (February, 2020) at page 55 paras 15.1–15.5

during the CIRP. The first view is that such profits/or losses should accrue to the creditors, as they forgo interest on their debts during the CIRP and also bear the losses arising from any decline in the company's valuation through haircuts. The second view is that the operating profits belong to the corporate debtor itself, remaining within the company and being factored into the resolution plan, thereby passing on to the Successful Resolution Applicant. Upon consideration, the Committee concluded that the law should remain flexible as to whether creditors or the Resolution Applicant should benefit from such profits. However, it is recommended that every resolution plan must mandatorily include a clear provision on the treatment and distribution of operating profits or losses.

40. We are of the considered view that during the CIRP, the rights of the Financial Creditor are protected through funds generated from the Corporate Debtor's operations and credited to its designated account. After approval of the Resolution Plan, those rights are determined by the plan's terms. Here we refer to the case of Hon'ble Supreme Court in ***Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta***³, which held that the profits made during the CIRP shall be distributed as per the provisions of RFRP. Also, the Hon'ble NCLAT in ***JSW Steel Ltd v. Mahender Kumar Khandelwal & Ors***⁴. reiterated that profits made during CIRP shall be distributed in accordance with RFRP as held by the Hon'ble Supreme Court in Essar Case.
41. In the present case, the Resolution Plan dated 13.10.2023 stipulates⁵ that **"The balances remaining in the bank account of the CD as on the vesting date shall be handed over to the financial creditor.** All balances after the vesting date will be handed over to the RA." It is pertinent to note that the Respondent No.1 consistently remitted lease payments into the Corporate Debtor's designated account throughout the CIRP (until

³ Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta (2019) ibclaw.in 07 SC

⁴ JSW Steel Ltd v. Mahender Kumar Khandelwal & Ors (2020) ibclaw.in 217 NCLAT

⁵ Page 27 of the Counter

July 2023), and rentals for August–October 2023 remain unpaid. In the light of the clear allocation in the Resolution Plan and Respondent No.1's established practice lease rentals for the period 01.08.2023 to 13.10.2023, which stood, or ought to have stood, to the credit of the Corporate Debtor's account on the vesting date fall within the "balances" allocated to the financial creditor under the Resolution Plan. Respondent No.1 cannot now contend otherwise.

42. The lease rent for the period from 01.08.2023 to 13.10.2023 falls within the CIRP period and was payable prior to the vesting date. If Respondent No. 1 had paid the same in due course, the amount would have been credited to the bank account of the Corporate Debtor and, as of the vesting date, would have belonged to the Financial Creditor in accordance with the Resolution Plan. The non-payment of such rent during that period does not alter its classification as a pre-vesting liability. Even if received later, the said amount shall form part of the pre-vesting balance payable to the Applicant Financial Creditor.
43. If the position taken by Respondent No. 1 is accepted, it could create a situation where any income generated through the operations of the Corporate Debtor during the CIRP period could be postponed by manipulation—deliberately withholding payment until after the approval of the Resolution Plan—thereby resulting in the unjust enrichment of the SRA at the cost of the Financial Creditor.
44. In the present case, if Respondent No. 1 (now the SRA) had not made payment for the earlier period of the CIRP, it could have claimed that such rentals did not belong to the Corporate Debtor, thereby depriving the Financial Creditor of its rightful entitlement under the Resolution Plan. Such a position cannot be accepted. Similarly, the claim of Respondent No. 1 that unpaid lease rentals for the CIRP period do not belong to the Financial Creditor is equally untenable.
45. A Resolution Applicant retains that status until approval of the plan by the Adjudicating Authority, thereafter becoming the Successful

Resolution Applicant. In this case, Respondent No.1 was a Resolution Applicant during August–September 2023 and remained obligated, as lessee, to pay rentals to the Corporate Debtor under the lease terms. The contention of the Respondent No 1 that such dues are extinguished under the Resolution Plan or amount to “payment to itself” is meritless.

46. The obligation to pay arose prior to approval of the Resolution Plan and before the vesting date, and is unaffected by the subsequent change in status of ownership. The Respondent No.1/SRA enjoyed continuous use and occupation of the leased premises as a Lessee during this period and is liable to pay the corresponding rentals.
47. In view of the above, this Authority holds that the obligation to pay lease rentals accrued during the CIRP continues until the vesting date of 13.10.2023. The Respondent No.1/SRA has failed to discharge the admitted liability of Rs 74,56,673/- for the period 01.08.2023 to 13.10.2023.
48. Accordingly, the application is allowed. The Respondent No.1 is directed to pay Rs 74,56,673/- to the Applicant within thirty (30) days from the date of this order.

This Application is allowed and disposed of.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)