

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH –II, CHENNAI**

IA(IBC)/578(CHE)/2022

in

TCP/575/2017

*(Filed under Section 33(2)(d) of the Insolvency and Bankruptcy Code,
2016 read with Rule 11 of the NCLT Rules, 2016)*

In the matter of **Suryabalaji Steels Private Limited**

Suryabalaji Steels Private Limited

Represented by its Liquidator,
Mr.M.S.Viswanathan

... Applicant/Liquidator

Order Pronounced on 22nd July 2022

CORAM:

**JUSTICE (RETD) S.RAMATHILAGAM, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Applicant : Mr.V.Manivannan, Advocate
Mr.M.S.Viswanathan, Liquidator*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

The IA(IBC)/578(CHE)/2022 has been filed by the Applicant under Section 33(2)(d) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking relief as follows;

- a) *To permit the Liquidator to sell the land and building of the Corporate Debtor by means of private sale.*
- b) *To pass such other orders as it deems fit in the above circumstances of the case and thus render justice.*

2. It is averred in the application that CIRP in respect of the Corporate Debtor was initiated on 05.10.2017 and the Applicant herein was appointed as IRP. Thereafter, liquidation of the

Corporate Debtor ordered on 29.05.2018 and the applicant herein was appointed as a Liquidator.

3. Pursuant to that the Liquidator caused a Public Announcement in Form-B on 13.06.2016 and had submitted the preliminary report list of stakeholders and Asset Memorandum to this Tribunal.

4. It was submitted by the Learned Counsel for the Liquidator that the time of his appointment the Corporate Debtor's factory was sealed and taken over by the State Bank of India, sole Financial Creditor under SARFAESI Act, 2002 and the business is closed. Hence, the Liquidator started selling the assets of the Corporate Debtor by E-Auctions based on the valuation obtained from the 2 registered valuers.

5. It was further submitted that the successful auction purchaser in the 7th e-auction, viz., Sunil Ferro And Energy Limited submitted a proposal with the Board Resolution for purchasing the leasehold land and building through private sale as follows

S.No.	Property Description	Amount
1	Leasehold Land with Compound wall	Rs.34,77,680/-
2	RCC Buildings	Rs.33,15,453/-
	Total	Rs.67,93,133/-

and it was emphasized that no bidders has shown interest for the assets of the corporate debtor for the last 7 e-auctions.

6. It was further submitted that the Liquidator had intimated about the above private saleproposal to the Sole Financial Creditor

State Bank of India SAM Branch (SBI), Coimbatore on 02.02.2022 and sought their advice for selling the assets of the Corporate Debtor.

7. It was further submitted that the Liquidator had valued the assets through the 2 IBBI registered valuers and based on their valuation report dated 14.12.2020, conducted further E-Auctions.

8. It was further submitted that the condition of the building is weak due to the cyclone in the year 2019 and thereafter started deteriorating due to termites and insects. Moreover the land was more open space and large tract of land covered with trees and underbrush and cost of the maintenance is also increasing. The land is a leasehold right and no purchasers are coming forward to purchase even after the many attempts.

9. It was further submitted that the previous valuation was taken on 04.12.2020 and the Liquidator is of the opinion that fresh valuation is required. Accordingly, in consultation with the SBI, the Liquidator appointed two IBBI registered valuers on 05.04.2022 and 25.04.2022 and obtained valuation reports for the unsold land and buildings.

10. Thereafter, the Liquidator wrote an e-mail on 30.04.2022 to the SBI along with the valuation report and sought advice regarding the Private Sale offer. In reply, the SBI agreed to proceed with the

private sale and asked to negotiate with the prospective purchaser to improve the offer.

11. Subsequently, the Liquidator wrote an e-mail to the prospective purchaser to improve from his earlier offer and he also improved from his earlier offer placed in the proposal from Rs.67,93,133 to Rs.72,00,000/- and informed the Liquidator. In view of the above the Liquidator sought permission of this Tribunal to proceed with the above private sale.

12. Having heard the submission of the Ld. Counsel and considering the ultimate object of the code i.e. 'maximization of value' this Adjudicating Authority is of the considered opinion that the proposed purchaser has given a lower offer in a proposal and the same person now given a higher offer in private sale. The private sale maximizes the value and hence private sale is permitted.

13. Accordingly, this application IA(IBC)/578(CHE)/2022 stands **allowed.**

SAMEER KAKAR
MEMBER (TECHNICAL)

JUSTICE (RETD) S.RAMATHILAGAM
MEMBER (JUDICIAL)

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