

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

**IA(IBC)579/CHE/2022 in CP/1307/IB/2018**

*(Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read  
with Rule 11 of the National Company Law Tribunal, Rules, 2016)*

In the matter of M/s. **The Jeypore Sugar Company Limited**

R.Prabhu  
S/o. P.R. Ramakrishnan & Anr

*... Applicants / Promoters*

Shri. V.Venkata Sivakumar  
Liquidator of  
M/s. *The Jeypore Sugar Company Limited* & 12 Ors

*... Respondent / Liquidator*

*Order Pronounced on 3<sup>rd</sup> June, 2022*

CORAM:

**JUSTICE (RETD.) S. RAMATHILAGAM, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

*For Applicant* : *P. Nagesh, Senior Advocate  
For R. Kannan, PCS*

*For Respondents* : *Venkata Sivakumar, Liquidator*

**ORDER**

The above application has been preferred by the Promoters of the Corporate Debtor (M/s. Jeypore Sugar Company Limited) under 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of NCLT Rules, 2016 seeking for the following interim reliefs;

- a. *To restrain the liquidator from dealing with Rayada lands on behalf of the corporate debtor and also not to indulge in conducting sale of any of the assets of the corporate debtor pending disposal of this case.*
- b. *To direct the liquidator not to deal with the functions of the liquidator except maintaining security at the corporate debtor premises pending disposal of this application.*
- c. *To permit the applicants to appoint one person at each of the premises of the corporate debtor along with the security maintained by the liquidator so that they will be in a position to report to this bench through this applicants if the liquidator is trying to remove the valuables of the company from respective premises.*
- d. *To order for an inquiry to find out the properties sold out by the liquidator.*
- e. *To constitute Joint Inspection Committee with person on behalf of the promoters, one person from IDBI consortium, one person from liquidator side and an expert knowing sugar factory functioning to visit Chagallu Sugar Factory. Pass such other orders that it deems fit and thus render justice.*
- f. *To direct the scrap purchaser (R12) not to proceed with lifting any kind of machinery or scrap until further directions are given by this Hon'ble Tribunal.*

2. The Applicant promoters submit that they preferred an application before the Appellate Tribunal in IA/341/2022 in

Company Appeal No (AT) (INSOLVENCY) 302/2021 seeking permission to pay off the debts of the Corporate Debtor and consequently to relieve the Corporate Debtor from the insolvency proceedings. The said application is stated to be pending consideration by the Appellate Tribunal.

3. As the present application raises serious allegations against the Liquidator, whereby the applicant alleges various actions and inaction by the Liquidator such as:

- A) Selling the assets of the Corporate Debtor under the guise of scrap.
- B) Ensuring that the Corporate Debtor is sold out for an under-value so as to favour Kineta Globak (R3)
- C) Dues of the Corporate Debtor paid to one Lakshmi Organic Industries (alleged Operational Creditor) during Corporate Insolvency Resolution Process
- D) Instructing and handling the litigation of the Corporate Debtor in a manner prejudicial to the Corporate Debtor, specifically in relation to the Writ Petition (W.P. (C) No. 4490 of 2015) before the Hon'ble High Court of Orissa which was preferred by the Corporate Debtor assailing order dated 09.02.2015 passed by the Additional District Magistrate, Rayagada in OLR Revision Case No. 1 of 2015.



4. We have heard the submissions made by the Learned Senior Counsel for the Applicant. It was argued by the Learned Senior Counsel that the Liquidator is selling the plant and machinery of the Corporate Debtor for a scrap value. It was also brought to the notice of this Tribunal that the 3<sup>rd</sup> Respondent has submitted a Scheme under Section 230 of Companies Act, 2013 and while the said Application was pending this Tribunal vide its order dated 17.11.2021 in IA/255(CHE)/2021 has directed the Liquidator to order for fresh valuation of the assets of the Corporate Debtor including the Rayagada Property in accordance with Regulation 35(2) of the IBBI (Liquidation Process) Regulations, 2016 and accordingly update the Asset Memorandum and thereafter invite the schemes from the prospective Scheme proponents in accordance with Section 230 of the Companies Act, 2013. It is seen that as against the said order, the 3<sup>rd</sup> Respondent preferred an Appeal before Hon'ble NCLAT, and the Hon'ble NCLAT has stayed the order passed by this Tribunal dated 17.11.2021.

5. Thus, the Hon'ble NCLAT is seized of the matter pertaining to the Scheme proposed under Section 230 of the Companies Act, 2013 and in the said circumstances, the Liquidator cannot be permitted to sell the plant and machinery of the Corporate Debtor.



6. Hence under the said circumstances, we find that it fit case to pass interim order as against the Liquidator as follows;

**“The Liquidator shall not deal with any of the assets of the Corporate Debtor till the disposal of the present Application. Further the 12<sup>th</sup> Respondent is also restrained from lifting any kind of machinery or scrap until the disposal of the present Application”**

7. The *Registry* of this Tribunal is directed to forward the copy of this order to all the Respondents arrayed as party to the present IA. The Petitioner is directed to forthwith serve the copy of the Applicant to the Respondents, particularly the 1<sup>st</sup> Respondent / Liquidation immediately, if not given so far. The Respondents are directed to file counter in the present Application within a period of one week from the date of this order. The Applicant shall file rejoinder if any, within a period of one weeks thereof.

8. List this matter for final hearing and disposal on **30.06.2022**

- Sd -

**ANIL KUMAR B**  
MEMBER (TECHNICAL)

- Sd -

**JUSTICE (RETD) S. RAMATHILAGAM**  
MEMBER (JUDICIAL)

Raymond