

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

IA(IBC)/2232 (CHE)/2023

In

CP(IB)/252/CHE/2022

(filed under Section 33 of the Insolvency & Bankruptcy Code)

*In the matter of M/s. Sri Lakshmi Saraswathi Spintex Limited*

**MR. CA. MAHALINGAM SURESH KUMAR**

*Resolution Professional of M/s. Sri Lakshmi Saraswathi Spintex Limited*

M/s. SPP Insolvency Professionals LLP

No. 27/9, Nivedh Vikas,

Pankaja Mill Road, Puliyakulam,

Coimbatore – 641 045

... Applicant/Resolution Professional

*In the matter of*

IDBI Bank Limited

... Financial Creditor

-Vs-

M/s. Sri Lakshmi Saraswathi Spintex Ltd

... Corporate Debtor

Order Pronounced on 19<sup>th</sup> January, 2024

CORAM

**SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)**

**SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

Appearances:

*For Applicant*

*: Mr. AG Sathyannarayana, Advocate*

**ORDER**

1. IA/(IBC)/2232(CHE)/2023 in CP/252(IB)/CB/2022 is an application filed under Section 33 of the Insolvency & Bankruptcy Code, 2016 (herein after termed as "the code") by Mr. CA. Mahalingam Suresh Kumar, Resolution Professional of M/s. Sri Lakshmi Saraswathi Spintex Limited seeking reliefs as follows,

- a) That this Adjudicating Authority may be pleased to pass an order for Liquidation of the Corporate Debtor i.e., Sri Lakshmi Saraswathi Spintex Limited;
- b) That this Adjudicating Authority may be pleased to pass an order by appointing M/s. SPP Insolvency Professionals LLP, IPE (Insolvency & Bankruptcy Board of India/IPE-0143/IPA-1/2022-23/50033) as Liquidator; and
- c) Pass such orders or further orders, if any as this Adjudicating Authority may deem to be fit and proper in the interest of Justice.

2. M/s. Sri Lakshmi Saraswathi Spintex Limited, the Corporate Debtor, was admitted into Corporate Insolvency Resolution Process (herein after referred to as 'CIRP') vide an order dated 15.06.2023 passed by this Adjudicating Authority. Mr. CA. Mahalingam Suresh Kumar, was appointed as the Interim resolution professional for the Corporate Debtor.
3. From the compliance Certificate (Form H) attached along with the application the dates and events subsequent to initiation of Corporate Insolvency Resolution Process of the Corporate Debtor is as follows,

S.No.	Date	Event
1.	17.06.2023	Publication of Public Announcement
2.	07.07.2023	Constitution of CoC
3.	13.07.2023	1 <sup>st</sup> Committee of Creditors (herein after referred to as "CoC") Meeting
4.	24.07.2023	Appointment of Registered Valuer for Land & Building
5.	27.07.2023	Appointment of Registered Valuer for Plant & Machinery
6.	11.08.2023	Reconstitution of CoC

7.	14.08.2023	2 <sup>nd</sup> CoC Meeting – Resolved to issue Form – G (EoI), draft Form-G was approved unanimously by the CoC.
8.	17.08.2023	Form – G was published
9.	05.09.2023	3 <sup>rd</sup> CoC Meeting- The evaluation matrix along with the RFRP was approved by the CoC.
10.	02.11.2023	4 <sup>th</sup> CoC Meeting- Discussion on non-receipt of Resolution plan was carried out and deliberations regarding Liquidation of the Corporate Debtor was taken up and thereafter, the same was adjourned to 03.11.2023 on request of one of the CoC member to discuss and decide on it further.
11.	03.11.2023	Adjourned 4 <sup>th</sup> CoC Meeting – The CoC with 100% voting resolved to Liquidate the Corporate Debtor.
12.	12.12.2023	End of 180 days of Corporate Insolvency Resolution Process Period.
13.	18.11.2023	Date of filling of Liquidation Application before this Adjudicating Authority.

4. It is stated that the Corporate Debtor has no Commercial Operations 3 years prior to initiation of Corporate Insolvency Resolution Process. It is further stated that an application under Section 19(2) of the code is filed by this applicant against the Suspended Director seeking to handover the documents relating to the Corporate Debtor and to extend co-operation for smother resolution of the Corporate Debtor, the same is pending adjudication.

5. It is stated that owing to absence of books of accounts and records of the Corporate Debtor, the RP/applicant has collated the claims received from various stakeholders to the extent possible by further calling upon clarifications.
6. It is stated that considering the status of the Corporate Debtor, that is inactive for more than 3 years and taking into the prevailing condition of garment industry no Resolution Applicants had responded for the EoI issued, taking into consideration the above aspects and keeping in view the time bound process of the code, the CoC has decided not to extend the Corporate Insolvency Resolution Process Period any further and thus resolved to Liquidate the Corporate Debtor with 100% voting during its adjourned 4<sup>th</sup> CoC Meeting held on 03.11.2023. The extract of the resolution passed during the 4<sup>th</sup> CoC meeting is as follows,

*“Resolution – 1 Resolved that the Corporate Debtor is to be liquidated, subject to the approval of Hon’ble National Company Law Tribunal, Chennai Bench under Section 33 of IBC, 2016, as no resolution Plan were received by the CoC.”*

*“Resolution -2 Resolved that M/s. SPP Insolvency Professionals LLP (a registered IPE & IP) having Insolvency & Bankruptcy Board of India Reg. No. Insolvency & Bankruptcy Board of India/IPE-0143/IPA-1/2022-23/50033 and valid AFA, to be appointed as the Liquidator to manage the Liquidation Process of the Corporate Debtor.”*

*“Resolution -3*

*Option – A*

*Resolved that the Liquidator fees shall be paid at such rates as specified under Regulation 4(2) of Insolvency and Bankruptcy Board of India*

*(Liquidation Process) Regulations, 2016 on realization and distribution of assets of the Corporate Debtor."*

(OR)

*Option B*

*Resolved further that the liquidator fee shall be paid as per Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 at a fixed rate of Rs.1,00,000/- plus applicable taxes on monthly basis for the period of liquidation."*

7. It is stated that since the CoC found no prospective aspect in continuing the Corporate Insolvency Resolution Process period, the above resolution for Liquidation of the Corporate Debtor has been passed taking into consideration the interest of the Corporate Debtor and all other stakeholders concerned and thus directed the Resolution professional to file application for Liquidation of the Corporate Debtor.
8. The Applicant/RP submitted FORM-H as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The same is placed in the typed set of papers filed with the application. On verification on the IBBI Website, it is seen that the proposed IPE has two partners viz, the applicant Mr. CA. Mahalingam Suresh Kumar and Mr. S. Prabhu. On verification in the Insolvency & Bankruptcy Board of India Adjudicating Authority Portal it is seen that the partners of the proposed IPE has no disciplinary proceedings pending against them and has AFA valid till 25.10.2024.

9. Heard the Ld. Counsel for the Applicant and perused the documents on record.

10. From the above facts and circumstances, considering the decision taken by the CoC of the Corporate Debtor, this Adjudicating Authority deems it fit to order Liquidation of the Corporate. Accordingly, we order liquidation of the Corporate Debtor by appointing M/s. SPP INSOLVENCY PROFESSIONALS LLP with Reg. No: [IBBI/IPE/0143 /IPA-1/2022-23/50033] (e-mail ID: [msureshkumar@icai.org](mailto:msureshkumar@icai.org)) as the Liquidators to carry out the liquidation process subject to the following terms/directions: -

- a) *The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date enjoined upon him.*
- b) *The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.*
- c) *The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file a suitable application before this Adjudicating Authority.*
- d) *The Registry is directed to communicate this order to the Registrar of Companies, Chennai and the Insolvency and Bankruptcy Board of India;*
- e) *In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory*

authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit individual Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor.

11. With the above directions, IA(IBC)/2232(CHE)/2023 in CP(IB)/252(CHE)/2022 stands **allowed** and disposed of.

— Sd —

**RAVICHANDRAN RAMASAMY**  
MEMBER (TECHNICAL)

— Sd —

**JYOTI KUMAR TRIPATHI**  
MEMBER (JUDICIAL)