



2

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

IA/(IBC)/1120(CHE)/2022 IN IBA/470/2020

*filed under Section 33 1 (a) of the Insolvency & Bankruptcy Code, 2016 for
Initiation of Liquidation Process of the Corporate Debtor*

*In the matter of **Thiruchitambalam Project Limited***

G. Mukundan,

Resolution Professional,
Thiruchitambalam Projects Ltd.,
Reg No. IBBI/IPA-001/IP-P01419/2018-2019/12162,
At 29A, First Main Road,
Eri Scheme, Mogappair,
Chennai – 600 037

... Applicant/ Resolution Professional

-VS-

Committee of Creditors of

Thiruchitambalam Projects Ltd. (Under CIRP)
Represented by Sole COC Member,
Sicagen India Limited,
Having office at SPIC House, 4th Floor,
88 Mount Road, Guindy,
Chennai – 600 032

... Respondent / Sole COC Member

*Order pronounced on **09th January 2023***

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

This Application has been filed by the RP in the matter seeking
the following reliefs:-



"(a) Pass an order of Liquidation of this Corporate Debtor under Section 33 (1) (a) of the Insolvency and Bankruptcy Code, 2016.

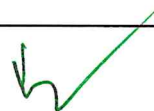
(b) Pass such other order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case and thus render justice."

2. The Corporate Insolvency Resolution Process (CIRP) in this matter commenced vide order of this Tribunal dated 02.09.2021 and the Applicant herein was appointed as the IRP.

3. Public announcement was made on 15.09.2021 in two newspapers and the same has been uploaded in the IBBI website. The public announcement is placed at Annexure-2 of the Application. The CoC was constituted comprising of sole Operational Creditor of the Corporate Debtor. The first meeting of the CoC was held on 05.10.2021 wherein the IRP was appointed as the RP of the Corporate Debtor.

4. The RP has filed an Application bearing IA/1149/CHE/2021. Pursuant to the directions given under the said Application, the suspended directors lent their co-operation to the RP.

5. Further, IA/394/CHE/2022 was filed by the RP seeking exclusion of the period of 89 days and the same was allowed vide order dated





28.04.2022 and accordingly the CIRP period of the Corporate Debtor was extended. Form-G in the matter was published on 23.05.2022. However, the RP did not receive any response.

6. It is averred by the Resolution Professional in the Application that the sole operational creditor comprising of the Committee of Creditors, was not cooperating in the CIRP. The RP has called for the 4th meeting of the COC on 30.06.2022 to take note of the status of the Form-G and to decide on filing extension application / liquidating the Corporate Debtor.

7. The said COC meeting was not attended by the sole COC member and meeting was adjourned to 01.07.2022. Further, the 5th COC meeting was held on 13.07.2022 to decide the pending matters, however the same was adjourned to 14.07.2022 as the Sole COC member did not attend the meeting.

8. The 6th COC meeting was scheduled to be conducted on 18.07.2022 which got adjourned to 19.07.2022. On both dates the meeting was adjourned owing to the absence of sole COC member.

9. Further it is averred in the Application that, the suspended board of directors appraised the RP that they have



settled the dues of the sole Operational Creditor, however, no form FA signed by the Operational Creditor was ever received by the RP.

10. On 06.08.2022 the RP received a mail from the suspended director along with which Form-FA from the Operational Creditor was received. However, the same was found to be defective by the RP.

11. The RP vide e-mail of 06.08.2022 informed the suspended directors that Form-FA was defective. As the CIRP period ended on 26.07.2022, the present Application was filed on 16.08.2022.

12. Heard the Counsel for the Applicant.

13. It is an unfortunate situation where the suspended board of directors and the COC do not realize the position of law and the timelines specified under the Insolvency & Bankruptcy Code, 2016.

14. This Tribunal vide order dated 04.11.2022 directed the RP to serve the copy of present application to erstwhile management. Ld. RP served the same and affidavit of service was filed under SR.No. 6093 dated 17.11.2022. However, during the final hearing none represented the erstwhile management.



15. From the record it is seen that: -

(a) No resolution plan was received by the RP.

(b) No application filed seeking extension of the CIRP, despite notice to the CoC detailing the agenda regarding extension of CIRP period.

(c) Number of times meeting were called however the coram of CoC was not present.

16. As no resolution plan was received before the last date for CIRP which was 26.07.2022. In terms of the provisions of Section 33(1)(a) this Tribunal is forced to order liquidation of the Corporate Debtor.

17. Accordingly, we order for liquidation of the Corporate Debtor. As the existing RP has attached Form-AA at Annexure No. 27 of the Application giving consent to act as the RP of the Corporate Debtor. **Mr. G. Mukundan**, Reg No. IBBI/IPA-001/IP-P01419/2018-2019/12162 is hereby appointed as the Liquidator of the Corporate Debtor.



18. It can be seen that the present matter satisfies the mandate under Section 33(1)(a) of the IBC, 2016. The Section 33(1)(a) of the IBC, 2016 is extracted hereunder:-

"33(1) Where the Adjudicating Authority,-

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30."

19. In view of the discussions above, the Corporate Debtor is hereby ordered liquidation.

20. In the circumstances, **Mr. G. Mukundan**, Reg No. IBBI/IPA-001/IP-P01419/2018-2019/12162 (email id: g.mukundan1955@gmail.com) is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the 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 upto date enjoined upon her.
- 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 suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to 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 that 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 a 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 report 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 co-operation in relation to the Liquidation process of the Corporate Debtor.

21. With the above directions, this **IA/(IBC)/1120(CHE)/2022** stands **allowed**.

← Sd

SAMEER KAKAR
MEMBER (TECHNICAL)

← Sd -

Justice (Retd.) RAMALINGAM SUDAKAR
PRESIDENT