

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH**

(Virtual Hearing)

PRESENT: SHRI RAJEEV BHARDWAJ – MEMBER (JUDICIAL)

: SHRI SANJAY PURI – MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 06.09.2024 AT 01:00 P.M.

TC/CP. Nos.	CA/IA No.	Present stage of the case	Section/Rule	Name of Parties
CP(IB)/202/9/AMR /2019	Admitted	Liquidation Application filed	9 of IBC	Tricon Energy (India) Pvt Ltd Vs S V K Shipping Services Pvt Ltd
	IA(IBC)(LIQUIDATION)/ 2/2024	For Orders	U/s 33(1)(b) of IBC, 2016	Mr.Kalvakolanu Muralikrishna Prasad, RP of M/s Tricon Energy (India) Pvt Ltd vs. SVK Shipping Services Pvt Ltd

**ORDER**

**IA(IBC)(LIQUIDATION)/2/2024:**

**Present:** Ms. JVL Bharati, Ld. Counsel for the Liquidator

Orders Pronounced. IA(IBC)(LIQUIDATION)/2/2024 is allowed and recorded vide separate sheets.

Sd/-

SANJAY PURI  
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ  
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI

IA(IBC) (LIQ.)/2/2024  
in  
CP(IB)/202/9/AMR/2019

[Application under Section 33 (1) (b) of the Insolvency and Bankruptcy  
Code, 2016]

In the matter of  
M/S SVK SHIPPING SERVICES PRIVATE LIMITED

Mr. Kalvakolanu Muralikrishna Prasad,  
Resolution Professional of M/s. SVK Shipping Services Private Limited,  
H.No: 8-27, Plot No: 106, Road No: 10,  
Mythripuram Colony, Vyshalinagar,  
Hyderabad – 500079.

...Applicant/Resolution Professional

Date of Order: 06.09.2024

CORAM:

SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)  
SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

Parties/Counsels Appearance:

For Applicant/RP : Mrs. J.V.L. Bharati, Advocate along with Mr.  
Kalvakolanu Muralikrishna Prasad, RP.

ORDER  
(Per: Bench)

1. This is an Application filed by Mr. Kalvakolanu Murali Krishna Prasad, Resolution Professional ("RP") of M/s. SVK Shipping Services Private Limited (Corporate Debtor ("CD")), under section 33 (1) (b) of the Insolvency and Bankruptcy Board of India, seeking:

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- a) To initiate Liquidation Process of the Corporate Debtor under section 33 of the Code and
  - b) To Appoint Mr. Kalvakolanu Murali Krishna Prasad, RP as the Liquidator of the Corporate Debtor as recommended by Committee of Creditors ("COC").
2. Brief facts of the Application are as follows:
- a) This Tribunal vide order dated 1305.2022 admitted the Corporate Debtor into CIRP and appointed Mr. Kantipudi Venkatraju as Interim Resolution Professional ("IRP") and in the 1<sup>st</sup> COC meeting held on 09.06.2022, COC replaced the IRP and vide order dated 24.08.2022 passed by this Tribunal, Mr. Kalvakolanu Murali Krishna Prasad was appointed as the RP.
  - b) During the 4th COC meeting held on 25.10.2022, decided to extend the CIRP period by 90 days from 10.11.2022, as the CIRP period expired on 09.11.2022, and the Tribunal allowed the same in its order dated 17.11.2022 passed in IA/325/2022. The Tribunal granted a second extension of 60 days, ending the CIRP 330-day period on 08.04.2023. A final extension of 45 days and a 116-day exclusion were granted on 20.04.2023, which expired on 17.09.2023.
  - c) The RP received a Resolution plan from Shri. ABP Narasimham, the sole resolution applicant ("SRA"), submitted to the COC on 11.09.2023. The committee reviewed the proposal, which offered a total payment of Rs. 201.10 lakhs, including CIRP expenses and amounts offered to various creditors, which was revised by an additional Rs. 5.00 lakhs on 18.04.2023, which are as under:

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Category of creditor/stakeholder	Claimed Amount Rs.	Admitted Amount Rs.	Final settlement Amount Rs.	% of settlement Amount to admitted claim
CIRP Costs	26,00,000	26,00,000	26,00,000	100%
Secured financial creditors – Canara Bank, China Waltair Branch	3,98,88,783	3,96,17,544	43,20,000	10.90%
Secured Financial creditors – Hinduja Leyland Finance Ltd.	2,53,43,387	1,23,23,077	50,00,000	40.57%
Unsecured Financial Creditors:	0	0	0	0
Govt. dues – ST	10,74,82,770	9,50,12,322	54,35,827	5.72%
Other OCs	5,88,24,602	5,17,24,611	20,64,173	3.99%
	0	0	0	0
<b>Total</b>	<b>23,28,39,542</b>	<b>19,99,77,548</b>	<b>1,94,20,000</b>	
Contingent liabilities			11,90,000	
<b>Grand total</b>			<b>2,06,10,000</b>	

- d) In the said meeting the representative of the COC observed that:
- i) The payments offered to operational creditors are disproportionate to their eligibility under the waterfall mechanism, as per sec 53.
  - ii) The distribution of Plan payments offered to secured creditors is not uniform and as such amount offered to Canara Bank is not satisfactory.
  - iii) COC members desired to know the alternative available to the financial creditors in case the resolution plan is not accepted.
- e) The RP informed the COC that the alternative left over is liquidation, with financial creditors having the option to exercise their rights over the assets of the CD under their charge or relinquish them to the liquidator for forming a liquidation estate and disposing of the assets according to section 53 of the IB code, 2016. The resolution

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professional received confirmation from Canara Bank on 22.07.2024, and e-voting was arranged from 25.07.2024 to 26.07.2024. Both CoC members voted in favour of liquidation with 100% voting share and passed the resolution which are as under:

**To review the present status of CIRP vis-à-vis Balance CIRP period as allowed by Hon'ble NCLT available and decide the further course of action:**

**i. Resolution for liquidation of CD:**

*"Committee resolved to reject the resolution plan submitted by Sri. APB Narasimham for a total amount of Rs. 206.10 lakhs and further resolved to recommend to the adjudicating authority, Hon'ble NCLT Amaravati Bench, for liquidation of the corporate debtor, under sec 33 (1) of IBC, 2016. The committee also resolved to direct the RP to file necessary IA with the Hon'ble Adjudicating Authority, accordingly."*

f) Further, the CoC by a majority vote, had approved resolutions under regulation 39B, 39C and 39D. The CoC suggested the name of the Applicant RP to appoint as the Liquidator.

3. Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.
4. We have heard the Learned Resolution Professional and perused the records.
5. It appears from the above that the CoC did not receive a feasible proposal for the revival of the Company, even after taking all the necessary actions during the CIRP as mandated by the Code.
6. The Hon'ble Supreme Court in the matter of *K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018* has held that the commercial decision of CoC is non-justiciable. In this case, it is seen that

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CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.

7. Hence, this Adjudicating Authority deems it proper to allow this Application. Accordingly, in exercise of powers conferred under Sub-Clause (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the IBC 2016, we proceed to pass the Order as follows:

**ORDER**

- a) This Adjudicating Authority hereby order for Liquidation of **M/S. SVK SHIPPING SERVICES PRIVATE LIMITED**, which shall be conducted in the manner as laid down in Chapter III of Part II of the IBC, 2016.
- b) This Adjudicating Authority hereby appoint **Mr. Kalvakolanu Muralikrishna Prasad (Registration No: IBBI/IPA-P00967/2017-18/11588)** as Liquidator as resolved by CoC.
- c) The Liquidator shall issue public announcement stating that Corporate Debtor is in Liquidation.
- d) The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

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- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- j) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued Liquidation process by the Liquidator.
- k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Andhra Pradesh, the Registered Office of the Corporate Debtor; and the Liquidator.
8. With the above directions IA(IBC)(LIQ)/2/2024 in CP(IB)/202/9/AMR/2019 is allowed and disposed of.

Sd/-

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

Sd/-

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**

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