

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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**IA No.71 of 2020 in
TCP (IB) No. 41/9/AMR/2019
[CP (IB) No. 423/9/HDB/2018]**

In the matter of Veda Bio Fuel Limited

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Dated 8th June, 2020

The regular court proceedings have been suspended/closed as per Notice dated 22.03.2020 of NCLT, Principal Bench and subsequent follow up orders due to the COVID-19 pandemic. The order in this case is ready. Counsel for both the parties are present in the Video Conference (VC). Order is pronounced as separate sheets through VC. IA allowed.

Upload the same onto the NCLT website. A copy of the order may also be sent to the Registrar, NCLT as per Circular dated 14.04.2020 for necessary action at his end.


MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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**IA No. 71 of 2020 in
TCP (IB) No. 41/9/AMR/2019
[CP (IB) No. 423/9/HDB/2018]**

**In the matter of M/s Veda Biofuel Limited
and**

**In the matter of an Application under Section 60(5) of the Insolvency
and Bankruptcy Code, 2016**

Between

Madhusudhan Raju Chintalapati
Villa 81, Lumbini SLN springs,
Near SLN Terminus Mall,
Gachibowli – 500 032,
Telangana.

... Applicant

And

1. Veda Biofuel Limited
Represented by its Resolution Professional
Mr. Sisir Kumar Appikatla
No.106, First Floor, Bharat Apartments,
Dwarakanagar, 5th Lane,
Visakhapatnam – 530016,
2. Committee of Creditors
Veda Biofuel Limited
106, First Floor, Bharat Apartments,
Dwarakanagar, 5th Lane,
Visakhapatnam – 530 016.
3. Bank of Baroda
Member of CoC
13-26-2, Apuroopa Arcade,
Maharanipeta,
Near Jagadamba Centre,
Visakhapatnam – 530 002.

... Respondents

Date of Order: 08.06.2020

CORAM:

Hon'ble Janab Mohammed Ajmal, Member Judicial.

Appearance:

For the Applicant: Mr. Duvva Pavan Kumar with Shraddha Gupta,
Advocates

For the Respondents: Mr. V. Suryanarayana with Ms. B. Aparna,
Advocate for R1

ORDER

This is an application seeking release of Performance Bank Guarantee in favour of the Applicant.

2. The brief facts leading to the present Application may be stated thus. The Operational Creditor namely M/s Priya Trading Company alleging default in payment of an operational debt sought Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor M/s Veda Biofuel Limited, Visakhapatam, in CP IB No. 423/9/HDB/2018 before the NCLT, Hyderabad Bench. The Hyderabad Bench by order dated 12.02.2019 admitted the petition and appointed the Interim Resolution Professional (IRP). The matter was transferred to this Authority upon its establishment on 29.07.2019.
3. This Authority by order dated 27.09.2019 in IA No. 19 of 2019 appointed Mr. Sisir Kumar Appikatla as the Resolution professional replacing the earlier Resolution Professional (RP). Consequent upon the notice seeking expression of interest the present Applicant and one M/s Orion Ferro Alloys Private Limited submitted their Resolution Plans. The Applicant on 24.12.2019 furnished a performance bank guarantee bearing No. 4026IGISS190128 of Rs. 5,00,00,000/- (Rupees Five Crores only). Subsequently, the Applicant in collaboration with one Mr. P. Vijay Kumar, former promoter of the Corporate Debtor, submitted a restructuring plan and the Committee of Creditors (CoC) by their Resolution dated 03.03.2020 approved the same as the Resolution Plan. The Resolution Professional filed IA No. 64 of 2020 for its approval by this Authority. While the matter was pending for orders, the present Applicant filed (i) IA No. 67 of 2020 to implead him as party in IA No. 64 of 2020 and (ii) IA No. 68 of 2020 for

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8/16/2020

making necessary modification to the Resolution Plan (Restructuring Plan). He thereafter filed the present application seeking release of the Bank Guarantee on the ground that since the restructuring plan was sought to be amended, the deposit of Rs. 5,00,00,000/- (Rupees Five Crores) as Bank Guarantee has lost its significance.

4. The Resolution Professional in his counter objected to the application. It is submitted that the Bank Guarantee of Rs. 5,00,00,000/- (Five Crores) is intrinsic to the Resolution Plan. The same accordingly cannot be released.
5. This Authority by order dated 26.05.2020 rejected IA Nos. 64, 67 and 68 of 2020 thereby declining to approve Resolution Plan/Restructuring Plan. It accordingly, under section 33(1)(b) of the Insolvency and Bankruptcy Code, passed orders for liquidation of the Corporate Debtor and appointed the Resolution Professional Mr. Sisir Kumar Appikatla as the Liquidator. In view of the rejection of the Resolution/Restructuring plan no reason subsists to hold the Bank Guarantee of Rs. 5 Crores furnished by the Applicant. The same therefore needs to be released in his favour. Hence ordered.

ORDER

The Application be and the same is allowed on contest. Bank Guarantee bearing No. 4026IGISS190128 of Rs. 5,00,00,000/- (Rupees Five Crores only) maintained with the Bank of Baroda, Maharanipet, Visakhapatam be released in favour of the Applicant and the amount in deposit be restored to him. No costs.


MOHAMMED AJMAL
(MEMBER JUDICIAL)