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

IA/213/IB/2020 in IBA/332/2019
filed under Section 33 (2) of the
Insolvency and Bankruptcy Code, 2016.

In the matter of M/s. R.A. Samy Trading Private Limited

Mr. Ashok Velamur Sheshadri
(Resolution Professional of
M/s. R.A. Samy Trading Private Limited)
Office: A2, II Floor, Dynamic Apartments
Parangusapuram Street, Aziz Nagar,
Kodambakkam, Chennai – 600 024

..... Applicant/RP

**IA/35/IB/2021 in IA/213/IB/2020 in
IBA/332/2019** filed under Rule 11 of
NCLT Rules, 2016.

Mr. A. Arumugaswamy
No. 21, Ranganathan Street,
T. Nagar, Chennai – 600 017

..... Applicant

Vs.

Mr. Ashok Velamur Sheshadri
(Resolution Professional of
M/s. R.A. Samy Trading Private Limited)
Office: A2, II Floor, Dynamic Apartments
Parangusapuram Street, Aziz Nagar,
Kodambakkam, Chennai – 600 024

Committee of Creditors



COMMON ORDER:

IA/213/IB/2020, IA/35/2021, E Filing Diary No.3305118/00134/2021 &
IA/805/IB/2020 in IBA/332/2019
In the matter of M/s. R.A. Samy Trading Private Limited

Rep. by Punjab National Bank
(Erstwhile United Bank of India)
Stressed Asset Management Branch
"Arulmani Building", No.27, Whites Road
Chennai – 600 014

..... Respondents

**E-filing No.3305118/00134/2021 in
IA/213/IB/2020 in IBA/332/2019 filed
under Section 60 (5) (c) of the Insolvency
and Bankruptcy Code, 2016**

Mr. A. Arumugaswamy
Suspended Director of Corporate Debtor
M/s. R.A. Samy Trading Private Limited
No. 21, Ranganathan Street,
T. Nagar, Chennai – 600 017

..... Applicant

Vs.

Mr. Ashok Velamur Sheshadri
(Resolution Professional of
M/s. R.A. Samy Trading Private Limited)
Office: A2, II Floor, Dynamic Apartments
Parangusapuram Street, Aziz Nagar,
Kodambakkam, Chennai – 600 024
Email – resolution.ramasamy@gmail.com

The Committee of Creditors
Rep. by Punjab National Bank
(Erstwhile United Bank of India)
Stressed Asset Management Branch
"Arulmani Building", No.27, Whites Road
Chennai – 600 014

..... Respondents

COMMON ORDER:

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IA/805/IB/2020 in IA/213/IB/2020 in
IBA/332/2019 filed under Section 60 (5)
(c) of the Insolvency and Bankruptcy
Code, 2016

Mr. A. Arumugaswamy
No. 21, Ranganathan Street,
T. Nagar, Chennai – 600 017

..... Applicant

Vs.

1. Mr. Ashok Velamur Sheshadri
(Resolution Professional of
M/s. R.A. Samy Trading Private Limited)
Office: A2, II Floor, Dynamic Apartments
Parangusapuram Street, Aziz Nagar,
Kodambakkam, Chennai – 600 024
Email – resolution.ramasamy@gmail.com

The Committee of Creditors
Rep. by Punjab National Bank
(Erstwhile United Bank of India)
Stressed Asset Management Branch
“Arulmani Building”, No.27, Whites Road
Chennai – 600 014

..... Respondents

CORAM:

R.SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

Presents:-

IA/213/IB/2020:-

For the Applicant/RP : *Shri. P.H. Arvindh Pandian, Senior Advocate*

IA/35/IB/2021 in IA/213/IB/2020:-

For the Applicant : *Shri. E. Om Prakash, Senior Advocate*
For M/s. T.M Naidu & Co.,

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For the Respondents : *Shri. P.H. Arvindh Pandian, Senior Advocate*
For M/s. Indialaw LLP.
Shri. P.S. Ganesh, Advocate for R2.

E-filing No.3305118/00134/2021 in IA/213/IB/2020:-

For the Applicant : *Shri. E. Om Prakash, Senior Advocate*
For M/s. T.M Naidu & Co.,
For the Respondents : *Shri. P.H. Arvindh Pandian, Senior Advocate*
For M/s. Indialaw LLP
Shri. P.S. Ganesh, Advocate for R2.

IA/805/IB/2020 in IA/213/IB/2020:-

For the Applicant : *Shri. E. Om Prakash, Senior Advocate*
For M/s. T.M Naidu & Co.,
For the Respondents : *Shri. P.H. Arvindh Pandian, Senior Advocate*
For M/s. Indialaw LLP
Shri. P.S. Ganesh, Advocate for R2.

COMMON ORDER

Per: R.SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 20.04.2021

IA/213/IB/2020 filed by the Resolution Professional seeking order of liquidation of the Corporate Debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

2. The Applicant/RP submits that by order dated 30.04.2019, this Adjudicating Authority had passed an order for Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor and the Applicant herein was appointed as the IRP.

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3. The Applicant/RP states that in the 1st CoC meeting which was held on 22.05.2019, the IRP was appointed as Resolution Professional.

4. The Applicant submits that Form-A making a Public announcement inviting claims was published in one issue of English newspaper "Indian Express" and another in Vernacular (Tamil) newspaper "Dhina Thandi" both dated 03.05.2019. The last date for submission of claims with proof by the Creditors was 14.05.2019.

5. In the 2nd CoC meeting held on 24.06.2019, the erstwhile Board of Director (Mr. Arumugasamy) expressed his willingness to co-operate with the CIRP. Therefore, this Adjudicating Authority vide order dated 19.06.2019, recorded the statement of Mr. Arumugasamy. However, the said Mr. Arumugasamy refused to co-operate with the RP for smooth conduct of CIRP.

6. When this matter was taken up before the Hon'ble NCLAT, the Hon'ble NCLAT passed an order dated 01.08.2019 disposing the appeal by Mr. Arumugasamy and imposed a cost of Rs.1,00,000/- with a direction to the erstwhile Board of Director to handover the

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records of the Corporate Debtor. From the pleading, it is clear that till date, Mr. Arumugasamy is not co-operating with the RP.

7. The CIRP period was extended by 90 days and exclusion of 55 days was granted under Section 12(2) of the Code by this Adjudicating Authority vide order dated 25.10.2019. In spite of this, no Resolution Plan could be obtained.

8. The Applicant further submits that there is a leased property of the Corporate Debtor which was leased out by Mr. Arumugasamy to his son Mr. A. Raghuram, by name, other than that there are no other transactions/business in the Corporate Debtor. A sum of Rs.22,70,22,000/- is due and pending from the said Mr. A. Raghuram. An application under Section 45, 49, 66 & 69 of the Code seeking a direction against Mr. A. Raghuram and Mr. Arumugasamy is pending before this Adjudicating Authority for adjudication.

9. The Applicant submits that Form G was published in "Economic Times" and "Dhina Thandi" both dated 28.08.2019. The last date for receipt of Expression of Interest was 27.09.2019 and the

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last date for submission of Resolution Plans was specified as 11.11.2019. However, no Expression of Interest was received and hence there was no pending Resolution Plan for consideration.

10. In the 5th CoC meeting held on 12.11.2019, the Applicant published addendum in "Economic Times" and "Dhina Thandi" both dated 18.11.2019. The last date for receipt of Expression of Interest was specified on 10.01.2020 and the last date for submission of resolution plans was specified as 25.02.2020.

11. Since there were no Prospective Investors, in the 6th CoC meeting held on 22.01.2020, the CoC unanimously passed a resolution to seek an order for liquidation of the Corporate Debtor.

12. Thereafter, in the 7th CoC meeting held on 17.03.2020, it was also discussed that it is the essence that the Corporate Debtor cannot be sold as a going concern, since there is no activity in the company.

13. Considering all these facts, it is ordered that the Corporate Debtor herein shall be liquidated. This Adjudicating Authority hereby appoint **Mr. Ashok Kumar Seshadri** having Registration No:

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IBBI/PA-001/IP/P00937/2017-2018/11541 to act 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 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 similar 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

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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

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steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

14. Accordingly, IA/213/IB/2020 is hereby **allowed** with the aforesaid terms.

15. At this juncture, it is important to list out the other three applications filed by the erstwhile Board of Director i.e. Mr. Arumugasamy as under:

A) IA/35/2021 in IA/213/IB/2020 in IBA/332/2019, seeking relief as follows:

“That this Hon’ble Tribunal may be pleased to treat the matter as Urgent to hear and pass such orders on the Application filed deem fit and proper for meeting the ends of justice in Application Efiling SR.No.330518/00134/2021”.

B) E Filing Diary No.3305118/00134/2021, seekings relief as follows:

- i. That this Hon’ble tribunal may be pleased to treat this matter as Urgent and fix an early date for re-hearing of the facts enumerated in the Application and thus render justice.*
- ii. Change the Resolution Professional who is acting in detrimental interest of the secured asset thereby defeating the very object of the code by not seeking to work for resolution of the Corporate Debtor”.*

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C) IA/805/IB/2020 in IA/213/IB/2020 in IBA/332/2019, seeking relief as follows:

“That this Hon’ble Tribunal may be pleased to treat this matter as Urgent and fix an early date or more precisely on 25.08.2020 along with the liquidation Application filed by the Resolution Professional is been listed in I.A.No. 213/IB/2018 in IBA/332/2019 as Item No.1. And thus render justice”.

16. All these above mentioned applications, we have heard the Counsel for the Applicant i.e., the erstwhile Board of Director.

17. From these applications and the pleadings submitted by the learned Senior Counsel, it is very clear that the erstwhile Board of Directors were trying to settle the amount with the Bankers and trying for a one time settlement proposal. Considering that, Mr. Arumugasamy, erstwhile Board of Directors has filed all these applications to delay the liquidation process. However, these applications have no merits for consideration, before this Adjudicating Authority.



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18. Hence, in view of the order of liquidation passed in a) IA/213/IB/2020, these b) IA/35/2021 c) E-Filing Diary No.3305118/00134/2021 and d) IA/805/IB/2020 are hereby closed.

19. Accordingly, IA/213/IB/2020 is **allowed**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

SR

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