

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 06.06.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/1945/2023 in Company Petition IB/64/2023
NAME OF THE COMPANY	Tirumala Hills Asphalat Pvt Ltd
NAME OF THE PETITIONER(S)	GP Petroleums Ltd
NAME OF THE RESPONDENT(S)	Tirumala Hills Asphalat Pvt Ltd
UNDER SECTION	9 of IBC

ORDER

IA (IBC)/1945/2023

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

I.A. No.1945 of 2023 in
C.P. (IB) No. 64/9/HDB/2023

Mr. Adinarayana Babji Kota,
Resolution Professional of
M/s. Tirumala Hills Asphalt Pvt Ltd,
3-1-211 Upstairs, Somasundaram Street,
West Marredpally,
Secunderabad – 500 003.

....Applicant

In the matter of:

M/s. GP Petroleums Limited,
804, 8th Floor, Aakruti Star,
MIDC Central Road, MIDC,
Andheri East,
Mumbai – 400 093.

.... Operational Creditor

Vs.

M/s. Tirumala Hills Asphalt Pvt Ltd,
Flat No.4, H.No.5-8-29, 4th Floor,
Laxmi Sai Nilayam, Fathe Sultan Lane,
Hyderabad – 500 001.

.... Corporate Debtor

Date of Order : 06.06.2024

Coram:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Counsel present:

For the Applicant : Mr. Adinarayana Babji Kota, RP

Heard on : 08.05.2024

Per : Bench

ORDER

1. This application has been filed by the Resolution Professional under Section 33(2) of the Insolvency and Bankruptcy Code 2016, seeking orders for Liquidation of the Corporate Debtor (**CD**) **M/S. TIRUMALA HILLS ASPHALT PVT LTD.**

Brief facts of the Application:

2. The CD was admitted into Corporate Insolvency Resolution Process (**CIRP**) by this Tribunal vide Order dated 14.06.2023 and the Applicant herein was appointed as Interim Resolution Professional (IRP). Pursuant to which, the IRP issued public announcement on 17.06.2023 in Form-A through daily newspapers inviting claims from the creditors of the CD and after receipt of claims, the IRP constituted the Committee of Creditors (CoC) and the following claims were admitted by the CoC:

Name of the Creditor	Amount claimed (Rs.)	Amount admitted (Rs.)
HDFC Bank Limited – Secured Financial Creditor	61,16,936.00	61,16,936.00
Operational Creditor	3,41,71,671.00	3,41,71,671.00
Total :	4,02,88,607.00	4,02,88,607.00

3. The CoC during its first meeting held on 10.07.2023 appointed the Applicant IRP as Resolution Professional (**RP**), and the RP submitted the First Progress Report before this Tribunal on 26.07.2023.
4. It is averred that, due to non-cooperation from the Suspended Directors of the CD in providing the required documents and information, RP filed IA No.1316 of 2023 before this Tribunal and the Adjudicating Authority vide Order dated 12.09.2023 directed

the Respondents to provide the information required by the Applicant RP. Despite the said orders, there was no response from the Suspended Directors of the CD, therefore, the Applicant RP filed the Contempt Application No.22 of 2023 before this Tribunal, which is pending adjudication.

5. It is stated that, in view of the non-availability of the required information and documents, the statutory compliance namely Statutory Audit, Income Tax Returns, MCA filings for the financial year 2022-23 and preparation of Information Memorandum could not be completed. It is asserted that, as per the computation upto July 2023, Rs 6.40 lakhs was payable towards tax, penalty and interest and the Bank balance is Rs 4.54 lakhs, hence there is a shortfall of Rs 1.86 lakhs.

Position of assets:

- Bank balance	:	Rs 4.54 lakhs
- Two tankers cost as per books	:	Rs 76,69,241
- Receivables as per Tally	:	Rs 110.26 lakhs

6. It is submitted that the CoC in its 5th meeting¹ held on 02.12.2023 with 100% voting resolved to liquidate the CD and to continue the Applicant RP as the Liquidator. The Applicant RP has given his consent² to act as the Liquidator for the CD.
7. It is stated that, the CoC has made an estimate of liquidation cost as Rs 2.70 lakhs and Valuer Fee & Incidental Expenses as Rs 1,08,780. The sole CoC member was in favour of repossessing the tankers and therefore, the sale of CD as a going concern

¹ Pg 19-26 of the application.

² Pg 27 of the application.

during liquidation was not favoured by the CoC.

8. It is further submitted that, as there is no Resolution Plan for the CD and the CIRP period ended on 10.12.2023, the CoC considered all the above factors and took a view that the CD cannot be resolved and seeking orders for Liquidation of the Corporate Debtor.

Decision:

9. We have heard the Learned RP and perused the records. As no assets of the CD have been handed over to the RP, therefore no viable Resolution Plan is envisaged. 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. Liquidation of **M/S. TIRUMALA HILLS ASPHALT PVT LTD**, shall be conducted in the manner as laid down in Chapter III of Part II of the IBC, 2016.
- b. **Mr. Adinarayana Babji Kota**³ is appointed 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

³ Having Registration No. IBBI/IPA-001/IP-P00850/2017-2018/11433, Address: 3-1-211 Upstairs, Somasundaram Street, Secunderabad, West Marredpally, Telangana - 500003, email : kotababji@gmail.com

- 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.
 - 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 during the 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, Telangana, the Registered Office of the Corporate Debtor; and the Liquidator.

With the above directions, this Application is allowed and stands disposed of.

Sd/-

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

Sd/-

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

VL