

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO:II  
SPECIAL BENCH(Video Conference)**

**CORAM: HON'BLE MADAN BHALCHANDRA GOSAVI – MEMBER JUDICIAL  
HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 16.04.2021 AT 10:30 AM THROUGH VIDEO CONFERENCE

|                                  |   |
|----------------------------------|---|
| TRANSFER PETITION NO.            |   |
| COMPANY PETITION/APPLICATION NO. | IA (IBC)/127/2021 in CP(IB) No.484/7/HDB/2019 |
| NAME OF THE COMPANY              | Sunpower Solar Technick Pvt Ltd               |
| NAME OF THE PETITIONER(S)        | Shriram City Union Finance Ltd                |
| NAME OF THE RESPONDENT(S)        | Sunpower Solar Technick Pvt Ltd               |
| UNDER SECTION                    | 7 of IBC                                      |

**Counsel for Petitioner(s):**

| Name of the Counsel(s) | Designation | E-mail & Telephone No. | Signature |
|------------------------|-------------|------------------------|-----------|
|                        |             |                        |           |

**Counsel for Respondent(s):**

| Name of the Counsel(s) | Designation | E-mail & Telephone No. | Signature |
|------------------------|-------------|------------------------|-----------|
|                        |             |                        |           |

**ORDER**

This matter is listed for pronouncement of orders.

IA No.127/2021 is allowed vide separate order.

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MEMBER TECHNICAL

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MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

**IA No.127/2021  
In  
CP(IB)No.484/7/HDB/2019**

**In the matter of: M/s. SUN POWER SOLAR TECHNICK PRIVATE LIMITED**

Mr. P.Sriram,  
Resolution Professional  
M/s. Sun Power Solar Technick Private Limited,  
10/17, Anandam Colony,  
South Canal Bank Road,  
Mandaiveli, Chennai - 28.

...Applicant

**Date of Order: 16.04.2021**

**Coram: Madan B. Gosavi, Member Judicial.  
Dr. Binod Kumar Sinha, Member Technical**

**Parties/Counsel(s) Presents:**

For the Applicant: Mr. Salvaji Raja Shekar Rao, Advocate

**[Per Bench]**

**ORDER**

1. The present Application bearing IA No. 127/2021 in CP(IB)No. 484/7/HDB/2019 is filed seeking following prayers:-
  - a. Pass an order of Liquidation of the Corporate Debtor viz. Sunpower Solar Technick Private Limited
  - b. Appoint Mr.P.Sriram, the Resolution Professional as the Company Liquidator;
  - c. Pass an Order for cessation of the moratorium declared under section 14 of IBC; and
  - d. Condonation of delay in completion of CIR Process within the timelines.
  - e. Pass such other orders in the interest of Justice.



2. Brief facts as stated by the counsel for the Applicant are as follows:-

- a. That M/s. Sriram City Union Finance Limited (Financial Creditor) filed CP(IB)No.484/7/HDB/2019 against M/s. Sun Power Solar Technick Private Limited (Corporate Debtor) under Section 7 of the IB Code and vide order dated 13.11.2019, this Adjudicating Authority admitted the said Application and appointed the Applicant herein as IRP. Later, the Applicant herein was confirmed as RP by CoC.
- b. That on 20.11.2019, the RP issued public announcement in Newspapers viz. Andhra Prabha (Telugu) & The Times of India, Hyderabad (English) calling for the claims, duly fixing the last date for receipt of claims as 02.12.2019.
- c. That due to non-cooperation of the Suspended Directors, the Applicant herein filed an Application bearing IA No.23/2020 U/s.19(2) of the Code and this Adjudicating Authority vide its order dated 02.02.2020 directed the Suspended Directors to co-operate with the RP. Despite the said order, the Suspended Directors failed to co-operate with the Applicant. Hence, Applicant filed another Application U/s.19(2).
- d. That with the approval of CoC in its 6<sup>th</sup> CoC meeting held on 23.11.2020, invitation for EoI was published in The Hindu (English daily) and Andhra Prabha (Telugu daily) on 23.11.2020. The last date for submission of EoI was 11.12.2020 and the last date for submission of Resolution Plan was 25.01.2021, which was later extended to 26.02.2021.
- e. That CoC in its 9<sup>th</sup> meeting held on 26.02.2021, decided to proceed for liquidation of Corporate Debtor and also to appoint the RP as Liquidator of the Corporate Debtor.

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- f. That CIRP shall be completed within a period of 180 days from the date of admission of the application to initiate such process i.e., from 13.11.2019 in terms of Section 12(1) of IBC 2016 as was in force as on the date of order of admission of application to initiate Corporate Insolvency Process i.e., 11.05.2021. However, the same could not be completed due to Lock-down.
- g. That Applicant had filed an Application in IA No.116/2021 U/s.60(5) for excluding the time upto 30.04.2021 or such other time as may be deemed fit and necessary. During the hearing held on 12.02.2021, this Adjudicating Authority disposed the Application and allowed IA No.116/2021 by excluding the lockdown period of 180 days as per Regulation 40C and directed the RP to complete CIRP in time bound manner.
- h. That even after taking into account of exclusion of days as allowed by this Adjudicating Authority, the last date for completion of the CIRP shall be on or before 07.11.2020, whereas the resolution was passed by the CoC for liquidation of corporate debtor only on 26.02.2021 with a delay of 111 days beyond 180 days (with exclusion of 180 days as allowed by this Tribunal). The delay was attributable to various factors including non-cooperation of the Suspended Directors, Statutory Auditors leading to delay in completion of valuation process, COVID issues etc.
- i. In the 9<sup>th</sup> CoC meeting held on 26.02.2021 it is resolved as under:-  
*“RESOLVED THAT pursuant to the provisions of Section 33 & 34 of Insolvency & Bankruptcy Code, 2016, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and other rules/regulations as may be applicable, the Committee of Creditors consisting of the following members do hereby decide to liquidate the Corporate debtor viz., Sunpower Solar Technik Private Limited U/s.33(2) of IBC, 2016.”*

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*“RESOLVED THAT subject to the approval of the adjudicating authority, the Mr.P. Sriram, Resolution Professional may continue to act as Liquidator of the corporate debtor in terms of Section 34 of IBC, 2016 unless replaced by the adjudicating authority.”*

*“RESOLVED THAT Mr.P. Sriram, who was the Resolution Professional of the Corporate debtor and proposed to be appointed as Liquidator of the corporate debtor Sunpower Solar Technik Private Limited, subject to the approval of the adjudicating authority be paid remuneration @Rs.1,00,000/- per month the fee in accordance with the provisions of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 for conducting liquidation proceedings which shall be paid by the financial creditors filing their claim post commencement of liquidation in proportion to their claims”*

*“RESOLVED THAT the total Corporate Insolvency Resolution Process(CIRP) cost of Rs.24,56,783.00/- (Rupees Twenty Four Lacs fifty six thousand seven hundred and eighty three only) incurred by the IRP/RP and to be payable to the IRP/RP shall be included in the CIRP cost and shall be included in the Liquidation cost.”*

3. Heard the RP and perused the records.
4. In view of the facts and circumstances as recorded by RP in IA No. 127 of 2021 filed in CP(IB) No. 484/7/HDB/2019, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016. Therefore, this Adjudicating Authority deems it proper to allow the Application bearing IA No.127/2021 as prayed for. Accordingly, in exercise of powers conferred under Sub-Clauses (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, we proceed to pass Order as follows:—

- (i) This Adjudicating Authority hereby order for Liquidation of M/s. Sun Power Solar Technick Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- (ii) This Adjudicating Authority hereby appoint Mr. P. Sriram who has given his consent dated 26.02.2021 to act as Liquidator in the present case. He is further directed to file the Authorisation for Assignment

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- (AoA) within 7 days from date of this order. He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;
- (iii) The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;
- (iv) Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- (v) We make it clear that para (iv) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- (vi) 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.
- (vii) All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Company Liquidator viz., Ms. Mr. P. Sriram. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (viii) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

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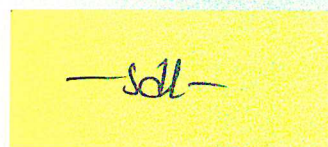
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- (ix) The Liquidator shall keep in view the provisions of Regulation 32A of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the assets of the Corporate Debtor under clauses (a) to (d) of Regulation 32 of Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016.
- (x) The Company Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in such a proportion to the value of the Liquidation estate assets as specified by the Board under Regulation 4(3) of IBBI (Liquidation Process) Regulations, 2016. Accordingly, the fees for conducting the Liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the Liquidation estate.
- (xi) Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. P. Sriram for information and compliance.
- (xii) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.

5. Accordingly, delay of 111 days is condoned and IA No.127/2021 is disposed of.



**DR. BINOD KUMAR SINHA**  
MEMBER TECHNICAL



**MADAN B. GOSAVI**  
MEMBER JUDICIAL