

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

IA(IBC)/1167(CHE)/2020

In

CP(IB)/1021(CHE)/2018

*(Filed Under Section 33 (1) (A) R/W Section 60 (5) (C) for order of
Liquidation and appointment of Liquidator under Section 34 of the IBC, 2016)*

In the matters of:

MRS. RAJALAKSHMI VARDARAJAN,

Resolution Professional,

M/s. Supreme Coated Board Mills Private Limited,

... Applicant

-Vs-

M/s. SUPREME COATED BOARD MILLS PRIVATE LIMITED.

... Respondent

And

IA(IBC)/307(CHE)/2021

In

CP(IB)/1021(CHE)/2018

*(Filed Under Section 60 (5) and Section 21 of the Insolvency and Bankruptcy
Code, 2016 and Rule 11 of The National Company Law Tribunal Rules, 2016)*

CITY UNION BANK LIMITED (CUB).

... Applicant

-Vs-

COMMITTEE OF CREDITORS,

Supreme Coated Board Mills Private Limited and 9 others.

... Respondents

And

IA(IBC)/958(CHE)/2020

In

CP(IB)/1021(CHE)/2018

(Filed Under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (IRP for CP) Regulations, 2016 and Rule 32 & 11 of National Company Law Tribunal Rules, 2016)

MR. T. BALASUNDARAM,

Proprietor of Gowtham Starch and Derivatives and 5 Others.

... Applicant

-Vs-

MRS. RAJALAKSHMI VARDARAJAN,

Resolution Professional of

M/s. Supreme Coated Board Mills Private Limited And 12 others.

... Respondent

And

IA(IBC)/1255(CHE)/2021

In

CP(IB)/1021(CHE)/2018

(Filed Under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016)

ASSISTANT COMMISSIONER (ST)(FAC),

Sattur-II Assessment Circle

... Applicant

-Vs-

TMT. RAJALAKSHMI VARADHARAJAN,

RP of M/s. Supreme Coated Board Mills Private Limited.

... Respondent

In the matter of:

M/s. SOLAR DYNAMIC PVT. LTD.

... Operational Creditor

-Vs-

M/s. SUPREME COATED BOARD MILLS PRIVATE LIMITED.

... Corporate Debtor

Order Pronounced on **07th February 2023**

CORAM

DR. DEEPTI MUKESH, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)

Memo

IA(IBC)/1167(CHE)/2020

MRS. RAJALAKSHMI VARDARAJAN,
Resolution Professional,
M/s. Supreme Coated Board Mills Private Limited,
351/18, Aishwarya Flats, 36th Street, I Block,
Anna Nagar, Chennai 6 00 040.
Having its Registered office at:
No.HT. SC No.230, SF. No. 326-330,
Vembakottai, Sivakasi,
Tamil Nadu 626 131.

*... Applicant /
Resolution Professional*

-Vs-

M/s. SUPREME COATED BOARD MILLS PRIVATE LIMITED,
Having its Registered office at:
No.HT. SC No.230, SF. No. 326-330,
Vembakottai, Sivakasi,
Tamil Nadu 626 131.

... Respondent

IA(IBC)/307(CHE)/2021

CITY UNION BANK LIMITED (CUB),
No.13, CHAIRMAN NPSN,
PKSA Arumuganadar Rd,
Kaliappa Nagar, Sivakasi,
Tamil Nadu - 626 123.

... Applicant

-Vs-

1. Committee of Creditors,
Supreme Coated Board Mills Private Limited
2. Ms. Rajalakshmi Varadarajan
Resolution Professional of
M/s. Supreme Coated Board Mills Private Limited
351/18, Aishwarya Flats, 36th Street,

I Block, Anna Nagar, Chennai – 600 040.

3. Mr. A. Tenzing,
Financial Creditor,
M/s. Supreme Coated Board Mills Private Limited,
No.1, Gnanagiri Road,
Sivakasi – 626 189
4. Arunsankar Enterprises Private Limited,
Financial Creditor,
M/s. Supreme Coated Board Mills Private Limited,
Old NO.21-E, New No.162,
Thiruthangal Road, Sivakasi,
Virudhu Nagar – 626 189.
5. Mr. Arun Tenzing,
Financial Creditor,
M/s. Supreme Coated Board Mills Private Limited,
No.1, Gnanagiri Road, Sivakasi – 626 189.
6. Pioneer Press Private Limited,
Operational Creditor,
Borpathy Building, 17A, Virudhunagar Road,
Sivakashi, Ramanathapuram – 626 123.
7. Bank of India,
Financial Creditor
M/s. Supreme Coated Board Mills Private Limited,
Mount Road Branch,
827, Dhun Building,
Mount Road,
Chennai – 600 002.
8. Bank of Baroda,
Financial Creditor,
M/s. Supreme Coated Board Mills Private Limited,
Sivakasi Branch,

New No.403, Old No.14H,
Ayyan Complex, Opp Bus Stand,
Sattur Road,
Sivakasi – 626 123.

9. Smt. M. Thangeswari,
Managing Director (Suspended)
Supreme Coated Board Mills Pvt. Ltd.,
Door 159, AVT Puthur Street, Sivakasi,
Virudhunagar, Behind SakkammalKoil,
Sivakasi.
10. Mr. K. Kannan
Managing Director (Suspended)
Supreme Coated Board Mills Pvt. Ltd.,
Door 159, AVT Puthur Street, Sivakasi,
Virudhunagar, Behind SakkammalKoil,
Sivakasi.

... Respondents

IA(IBC)/958(CHE)/2020

1. Mr. T. Balasundaram,
Proprietor of
M/s. Gowtham Starch and Derivatives,
No. M 40, Thiruvallurvar Nagar,
Rajapalayam – 626 117.
Tamil Nadu, India.
2. Mr. E. Rajasekaran
Proprietor of
M/s. E.R. Agencies,
No.6/212 A, Samayapuram Colony,
Sivakasi East – 626 189
Tamil Nadu, India.
3. Mrs. E. Geetha
Proprietor of M/s. Priya Trading Company,
No.6/127 E, Samayapuram Colony,

Sivakasi East – 626 189, Tamil Nadu, India.

4. Mr. S. Ethiraj
Proprietor of
M/s. Jaya Cutting Works,
No.6/126 E, Samayapuram Colony,
Sivakasi East – 626 189
Tamil Nadu, India.
5. Mr. M. Karthik Kannan
Proprietor of
M/s. Sri Karthik Traders,
No.1/250, Pachaiyapuram Middle Street,
Thavilpatti, Tamil Nadu, India.
6. Mr. S. Rathakrishnan.
Proprietor of
M/s. A One Chemicals,
No.20/19, Mani Nagar,
Pacr Road, Rajapalayam – 626 108,
Tamil Nadu, India.

The Applicant Nos.2 to 6 are duly represented by
their constituted Special Power of Attorney Agent
Mr. T. Balasundaram, the 1st Applicant herein.

... Applicants

-Vs-

1. Mrs. Rajalakshmi Vardarajan,
Resolution Professional of
M/s. Supreme Coated Board Mills Private Limited,
Flat No.3, Dhruvatara Apartments,
351/18, Aishwarya Flats, 36th Street,
I Block, Anna Nagar, Chennai – 600 040.
Tamil Nadu, India.
2. Mr. A. Tenzing,
Financial Creditor / CoC Member /
Prospective Resolution Applicant,

- M/s. Supreme Coated Board Mills Private Limited,
No.1, Gnanagiri Road,
Sivakasi – 626 189
Tamil Nadu, India.
3. M/s. Arunsankar Enterprises Private Limited,
Financial Creditor / CoC Member /
Prospective Resolution Applicant,
Having its Registered Office at
Old NO.21-E, New No.162,
Thiruthangal Road,
Sivakasi,
Virudhu Nagar – 626 189,
Tamil Nadu, India.
4. City Union Bank,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
No.13, Chairman NPSN,
Arumuga Nadar Road,
Sivakasi – 626 123.
5. Bank of Baroda,
Financial Creditor, CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
Sivakasi Branch,
New No.403, Old No.14H,
Ayyan Complex, Opp Bus Stand,
Sattur Road,
Sivakasi – 626 123.
6. Bank of India,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
Mount Road Branch,
827, Dhun Building,
Mount Road,
Chennai – 600 002.

7. Jai Aravali Industries
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
29, KHADAK Street, 3rd Floor,
Telwala Building,
Masjid Bandur Road,
Mumbai – 400 009.
8. Mr. T.S.Maharaj,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
150, New Road,
Sivakasi – 626 123,
Tamil Nadu, India.
9. Mr. S. Alagendran,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
39G, P.K.N. Road, Sivakasi, Tamil Nadu, India.
10. Mr. S. Balakrishnan,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
39H, P.K.N. Road, Sivakasi,
Tamil Nadu, India.
11. Mr. Chandramohan,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
7N/39B, Bharathi Nagar,
P.K.N. Road, Sivakasi – 626 189,
Tamil Nadu, India.
12. Mr. T. Radhakrishnan,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
428, PKSA Arumugam Road,

Sivakasi, Tamil Nadu, India.

13. Mr. R. Srikanth,
Financial Creditor / CoC Member of
M/s. Supreme Coated Board Mills Private Limited,
39B, P.K.N. Road,
Sivakasi, Tamil Nadu – India ... Respondents

IA(IBC)/1255(CHE)/2021

Assistant Commissioner (ST)(FAC)
Sattur-II Assessment Circle,
Commercial Taxes Buildings,
NGO Colony, Satchiyapuram,
Sivakasi West – 626 124.
Virudhunagar District.

... Applicant

Vs.

Tmt. Rajalakshmi Varadharajan,
(Reg.No.IBBI/IPA-003/N000145/2017-18/11597)
RP of M/s. Supreme Coated Board Mills Private Limited,
No.351-18, 2nd Floor, Aiswarya Flats,
36th Street, I Block, Anna Nagar, Chennai – 600 040.

... Respondent

Present

In IA/1167(CHE)/2020:

For Applicant:

Mr.S.Satyanarayanan, Advocate

Tmt.Rajalakshmi Varadharajan, Resolution Professional

In IA/307(CHE)/2021:

For Applicant:

Ms.Shubharanjani, Advocate.

For Respondent:

Mr.S.Satyanarayanan, Advocate.(for R2)

Ms.Sarah Abraham, Advocate. (for R3 to R6)

In IA/958(CHE)/2020

For Applicant:

Mr.B.Dhanraj, Advocate,

Mr.Mohammed Umar, Advocate

For Respondent:
Mr.S.Satyanarayanan

In IA/1255(CHE)/2021
For Applicant:
Mr.B.Vijay, Advocate,

For Respondent:
Mr.S.Satyanarayanan

COMMON ORDER

IA(IBC)/1167(CHE)/2020 is an application filed by the RP seeking the following prayers:

- a) *To pass order of liquidation of the Corporate Debtor in view of the fact that the RP did not receive any Resolution Plans from any potential Applicant till the completion of the stipulated period of the CIRP process and further that after applying the commercial wisdom of the COC, the COC members decided that it is not worth and feasible for the COC members to go for second invitation of EOI under the current economic condition and thereby decided to liquidate the company, and hence this Application is filed for the order of liquidation in accordance to the provisions of the Code and for appointment of Liquidator as proposed in the application; and such other orders as deem fit in the given facts and circumstances of the case. The Resolution Professional Ms. Rajalakshmi Vardarajan with Registration Number Reg. No.IBBI/IP-003/IP-N000145/2017-18/11597 to be appointed as liquidator*

of the Corporate debtor once the corporate debtor is ordered for liquidation; and

b) pass such other orders as deem fit and necessary in the given circumstances of the case and thus render justice.

2. IA(IBC)/307(CHE)/2021 is an application filed by one of CoC member, City Union Bank Limited, seeking the following prayers:

a) Pass an Order declaring the Respondents 3 and 5 as 'Related Parties' of the Corporate Debtor and consequently direct their removal from the Committee of Creditors / Stakeholders Committee of the Corporate Debtor;

b) Pass an Order Reconstituting the Committee of Creditors of the Corporate Debtor without the Respondents 3 and 5;

c) Pass such further or other orders as this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.

3. IA(IBC)/958(CHE)/2020 is an application filed by Operational Creditor seeking the following prayers:

a) Declare the resolution for liquidation passed in the 8th CoC meeting held on 02.06.2020, as null and void and in contravention to the provisions of the Insolvency and Bankruptcy Code, 2016.



b) Direct the 1st Respondent / Resolution Professional to invite fresh Expression of Interest (EoI) under the provisions of the IBC, 2016.

c) Direct the CoC / Respondent No.2 to 13, to keep the Corporate Debtor as going concern with full manufacturing capacity as resolved in the 5th CoC meeting held on 20.03.2020.

d) Pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.

4. IA(IBC)/1255(CHE)/2021 is an application filed by the RP seeking the following prayers:

"In these circumstances, it is therefore prayed that this Hon'ble Tribunal may be pleased consider the Tax arrears of the State Goods and service department which the IR Professional (ie the respondent) has rejected and also include the State Goods and service Tax department as stake holders as per Regulation 31 of Liquidation Process Regulation, 2016 and thus render justice."

Now we deal with each of application on its merits as under:

5. **In IA(IBC)/1167(CHE)/2020:**

5.1. It is seen that by the order dated 30.09.2019 in CP/1021/IB/2018 CIRP commenced on the Corporate Debtor

M/s. Supreme Coated Board Mills Private Limited and the Applicant was appointed as IRP.

5.2. Public announcement of initiation of CIRP was published in Form A in Economic Times and Makkal Kural and in New Indian Express and Dinamani on 05.10.2019 & 14.10.2019.

5.3. 8th meeting of COC was held on 02.06.2020, with 91.80% majority approved the following resolution. Voting results of the same are annexed on page no.42 of the present application.

"Resolved to recommend the liquidation of the corporate debtor and authorize the Resolution Professional to apply for liquidation with the Adjudicating Authority."

5.4. In premise of the above we deal with the present application:

(i) It is seen that 330 days of the CIRP have ended on 25.08.2020. There has been no application seeking extension, exclusion in the present matter.

We reproduce Section 33 of the Code:

33. Initiation of liquidation

33. (1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) *Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors ¹[approved by not less than sixty-six per cent of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).*

[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]

Taking in to consideration the provisions as contained in Section 33(2) of IBC, 2016, it is seen that CIRP period of 330 days of the Corporate Debtor has since expired.

(ii) It is also seen that COC with 91.8% majority has already voted for liquidation of the corporate debtor in the 8th COC meeting held on 02.06.2020 much before expiry of 330 days and



the present application has been filed in this Tribunal on 06.08.2020. It is also seen that the factory of the corporate debtor is presently closed.


(iii) Form H is appended on page nos.48 to 53.

(iv)The present RP has given consent to act as Liquidator in the matter and the consent is attached on page no.54.

5.5. Thus, in view of the provision set out in Section 33 of IBC, 2016 thereof, the Corporate Debtor is required to be ordered for liquidation as per Section 33(1)(a) of IBC, 2016. A search of IBBI website reveals that authorization for assignment to the said Insolvency Professional is valid up to 30.11.2023.

5.6. We hereby appoint **Ms. Rajalakshmi Vardarajan** with Registration Number **Reg. No.IBBI/IP-003/IP-N000145/2017-18/11597** 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 up to date enjoined upon her.



- 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 like 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 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 steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

5.7. In premise of the foregoing, we are constrained to order for liquidation of the Corporate Debtor.



6. IA(IBC)/307(CHE)/2021

6.1. In view of the order passed in IA(IBC)/1167(CHE)/2020, ordering liquidation of the Corporate Debtor the progress of re-constitution of the CoC has become redundant. Since, all creditors will file their claim in appropriate forms before the Liquidator there will be formation of Stakeholders Constitution Committee with fresh list of creditors.

6.2. Thus, the application is disposed of with liberty to the applicant creditor to file their claim before Liquidator and participate in liquidation process. Application stands disposed of.

7. IA(IBC)/958(CHE)/2020

In view of the order passed in IA(IBC)/1167(CHE)/2020, ordering liquidation of the Corporate Debtor, as per the provisions of the IBC, 2016 wherein it is mandatory to order liquidation, if within CIRP period no resolution plan approved by CoC. In the present case 330 days of CIRP as per Section 12 of IBC, 2016 has expired and there is no other option by to order liquidation. Hence, the prayers in this IA(IBC)/958(CHE)/2020 have become infructuous and this IA stands disposed of as infructuous.



8. IA(IBC)/1255(CHE)/2021

8.1. In view of the order passed in IA(IBC)/1167(CHE)/2020, ordering liquidation of the Corporate Debtor, present applicant being claimant (Assistant Commissioner (ST) (FAC)) whose claim was rejected by Resolution Professional, will have opportunity to file its claim before Liquidator which shall be considered by Liquidator as per law. The claim filed before Resolution Professional cannot be considered as the Resolution Professional become *functus officio* and Liquidator shall take the process further. In view of above circumstance, this application become infructuous and is disposed of with liberty to Applicant to file its claim before Liquidator which shall be considered by Liquidator as per law.

8.2. **IA(IBC)/1255(CHE)/2021** stands disposed of in terms of above terms.



SAMEER KAKAR
MEMBER (TECHNICAL)

Phk/Gopishankar.D



DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

