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

**IA/558(CHE)/2021  
in  
IBA/1263/2019**

*(filed under Section 33(2) and 34(1) of the Insolvency and Bankruptcy  
Code, 2016)*

In the matter of **M/s. Ultra Tile Private Limited**

**L.V Shyam Sundar,**  
Resolution Professional of  
M/s. Ultra Tile Private Limited,  
No.17, Gandhi Road, 3rd Floor,  
Alwarthirunagar, Chennai – 600087.

*... Applicant / Resolution Professional*

*Order Pronounced on 01<sup>st</sup> March 2022*

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**Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Applicant: Jayanth Viswanathan, PCS

ORDER

**Per: ANIL KUMAR B, MEMBER (TECHNICAL)**

This is an application filed under Section 33(2) and 34(1) of the Insolvency and Bankruptcy Code 2016 (in short 'IBC, 2016') seeking relief as follows:

- (i) *Pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in Section 33(1)(a) of Chapter III of IBC, 2016.*

- (ii) *To appoint the Interim Resolution Professional, Mr. L.V Shyam Sundar, as the Liquidator of the Corporate Debtor.*
- (iii) *Pass such further or other orders as may deem fit and proper in the facts and circumstances of the case and thus render justice.*

2. In Section 7 application filed by the Financial Creditor against the Corporate Debtor viz., Ultra Tile Private Limited, this Tribunal vide order dated 30.03.2021 initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor and appointed the Applicant herein as Interim Resolution Professional (IRP).

3. It is averred in the application that pursuant to the Applicant being appointed as IRP, he caused Public Notice in Form-A and invited claims in accordance with the provisions of IBC, 2016. Thereafter, it is submitted that the IRP has constituted the Committee of Creditors (CoC) and the 1<sup>st</sup> Meeting of the CoC was held on 29.04.2021 and the sole Financial Creditor along with the promoter / suspended director was present. It was submitted that in the first meeting of the CoC itself it was taken note that the Corporate Debtor was not in active business and that the company was totally shutdown and a resolution to revive was very remote and that liquidation was the preferred option.

4. Thereafter, it is seen that the 2<sup>nd</sup> CoC meeting was convened on 07.05.2021 through video conference and the remuneration which was payable to the Liquidator was fixed by the CoC and that the CoC has passed the following Resolution;

*"RESOLVED THAT M/s Ultra Tile Private Limited be and is hereby liquidated and that a liquidation petition under Section 33(2) of The Insolvency and Bankruptcy Code, 2016 be filed with the Hon'ble National Company Law Tribunal, Chennai."*

*"RESOLVED FURTHER THAT the Interim Resolution Professional, Mr. L.V Shyam Sundar be appointed as the liquidator at a fee of Rs. 75,000 (Rupees Seventy five Thousand) plus GST per month with effect from the date of liquidation."*

5. On perusal, it is found that this adjudicating authority, when the application for liquidating the company under section 33(2) of IBC, 2016 was taken up for hearing on 12.08.2021 directed:

I. The applicant to call for the meeting with the CoC Members on or before 19.08.2021 and after approval from CoC to appoint two Registered Valuers on or before 26.08.2021 and that both the Registered Valuers shall submit their report with fair value and liquidation value on or before 26.09.2021.

II. The IBBI to conduct an enquiry against the RP Mr. L.V Shyam Sundar and forward its findings to this Adjudicating Authority.

6. It is noted that based on the directions of this Adjudicating Authority, the applicant had conducted third meeting of the CoC

and appointed two Registered Valuers on 26.08.2021 and that the valuers have submitted their valuation report on 24.09.2021. Also, the IBBI has submitted its report dated 13.12.2021 and has observed that the applicant has acted in consonance with the provisions of the Code and Regulations made thereunder and did not find any contraventions by the applicant of any provisions of the Code and its Regulations.

7. Since, in the 02<sup>nd</sup> CoC meeting held on 07.05.2021, the Committee of Creditors has deliberated about the current affairs of the Corporate Debtor by taking into consideration the fact that the Corporate Debtor is not running its business and based on its commercial wisdom has decided to liquidate the Corporate Debtor, by taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to the Application from the Promoters of the Corporate Debtor and also guided by the decision of the Hon'ble Supreme Court in the matter of **Mr. K. Sasidharan -Vs- Indian Overseas Bank (2019) SCC OnLine SC 257** this Tribunal orders for the liquidation of the Corporate Debtor.

8. It is also seen from the records that the Applicant herein has accorded his written consent in Form AA to act as the Liquidator of the Corporate Debtor. In the circumstances, **Mr. L.V Shyam**



**Sundar, IBBI/IPA-002/IP-N00262/2017-2018/10775,** is appointed 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 Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended from time to time.
- 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 creditor, 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, viz., company-in-liquidation.

9. The application IA/558(CHE)/2021 stands **disposed of** with the aforesaid terms.

-Sd-  
**B. ANIL KUMAR**  
MEMBER (TECHNICAL)

-Sd-  
**Justice (Retd.) S. RAMATHILAGAM**  
MEMBER (JUDICIAL)

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