

9

NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 29-05-2020 AT 11.30 AM THROUGH
VIDEO CONFERENCING

PRESENT: SHRI R. VARADHARAJAN, MEMBER-JUDICIAL
SHRI S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

APPLICATION NUMBER : MA/130/2020

PETITION NUMBER : IBA/910/2019

NAME OF THE PETITIONER(S) : TIRUPUR SRI SENTHIL COTTON MILLS LTD

NAME OF THE RESPONDENT(S) :

UNDER SECTION : 33 (2) OF IBC 2016

ORDER

Counsel namely Mr. S.Sathiyarayanan for the Applicant appeared and
Order pronounced through Video Conferencing, attached vide separate sheet.

SD
[S. VIJAYARAGHAVAN]
Member (Technical)

SD
[R. VARADHARAJAN]
Member (Judicial)

sr

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, CHENNAI**

MA/130/2020 in IBA/910/2019 filed
under *Sections 33 (2)* of the Insolvency
and Bankruptcy Code, 2016

In the matter of ***M/s. Tirupur Sri Senthil Cotton Mills Limited***

KC Senthilkumar,
Resolution Professional
M/s. Tirupur Sri Senthil Cotton Mills Limited

... Applicant /RP

CORAM:

R. VARADHARAJAN, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Applicant : *Shri. S. Sathiyarayanan, Advocate*

ORDER

Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Order Pronounced on: 29.05.2020

This Application has been moved by the Resolution Professional appointed by this Tribunal, seeking for the liquidation of the Corporate Debtor under Section 33 (2) of the IBC, 2016.

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated and the Applicant herein was appointed as IRP on 25.09.2019 and the IRP caused public announcement calling for the claimants from the Creditors of the Corporate Debtor by virtue of publication dated 30.09.2019, subsequently, the applicant received the claim of Mr.Ce.K. Thurraiswami, the Financial Creditor, pursuant to that the CoC was constituted on 15.10.2019 and the 1st meeting of the CoC was held on 23.10.2019. Thereafter, the CoC resolved

to appoint the Applicant as the Resolution Professional on 23.10.2019. Pursuant thereto, the applicant appointed 2 IBBI Registered Valuers on 02.11.2019 for valuation of assets of the Corporate Debtor and from Form-H filed as per directions of this Tribunal, it is evident that the fair value and the liquidation value of the Corporate debtor are as follows:-

S. No	Particulars	Valuation Amount
1	Fair Value	Rs.1,16,217/-
2	Liquidation Value	Rs.1,16,217/-

3. It is also evident that the 2nd CoC meeting held on 06.12.2019 had decided to issue invitation for Expression of Interest and the invitation for EOI in Form-G was published in newspapers on 09.12.2019 for inviting prospective resolution applicants. The counsel for the Applicant submitted that no Expression of Interest was received from any prospective Resolution Applicant. Further, the CoC after considering various factors including the fact that there is no viable on-going business and non-availability of any fixed assets in the Corporate Debtor had decided and passed a Resolution to liquidate the Corporate Debtor. The counsel for the RP submitted that no application is pending under Section 43, 45, 50 and 66 of the IBC.

4. The 3rd CoC meeting held on 03.01.2020 unanimously resolved to liquidate the Corporate Director and thereby directed the Applicant herein to approach this Tribunal for liquidation of the Corporate Debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016. The 3rd CoC

meeting further approved the Resolution Professional Mr. KC Senthil Kumar to act as Liquidator upon orders passed by the NCLT.

5. Learned Counsel for the Resolution Professional submitted that as per the resolution passed by the 3rd CoC approving the RP to act as a Liquidator is also extracted and that the written consent by the proposed RP has been filed. On perusal it is seen that the RP has given his written consent by signed letter dated 18.02.2020 to act as a Liquidator of the Corporate Debtor, if appointed by this Tribunal.

6. 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.

7. In the circumstances, **Mr. K.C.Senthilkumar**, IBBI/IPA-001/IP-01229/2018-2019/12091 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 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 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 governs 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, viz., company-in-liquidation.

8. Accordingly, the application MA/130/2020 stands **disposed of** with the aforesaid terms.

SD

[S. VIJAYARAGHAVAN]
Member (Technical)

SD

[R. VARADHARAJAN]
Member (Judicial)

TJS

Order Pronounced by the concord in terms of NCLT Circular dated 14.04.2020 through Video conferencing platform, Member (J) and Member (T) are present in person at Chennai and the respective parties intimated to be present through video conferencing and after duly listing and uploading the Cause List dated 29.5.2020 for Chennai Bench - II


N. SRIRAMASUBRAMANIAN
ASSISTANT REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR
29, RAJAJI SALAI, CHENNAI-600001