

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)
PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 07.02.2023 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)No.174/10/AMR/2019	Main Case	10 Of IBC	Ramana Sri Logistics Pvt Ltd Vs Bank of India
	IA(IBC)/368/2022	60(5) of IBC	Mr. Immaneni Eswara Ro, Liquidator of M/s Ramana Sri Logistics Private Limited

ORDER

IA(IBC)/368/2022:

Mr. Y.Suryanarayana, Counsel for the Applicant present.
IA(IBC)/368/2022 is allowed, vide separate orders.

Sd/-
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

RSN

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**

**IA(IBC)/368/2022
IN
CP (IB) No.174/10/AMR/2019**

**Under Section 60(5) of Insolvency and Bankruptcy Code, 2016 Read
with Rule 11 of National Company Law Tribunal Rules, 2016**

In the matter of
M/s. RAMANA SRI LOGISTICS PRIVATE LIMITED

BETWEEN:

Mr.Immaneni Eswara Rao,
(Reg.No.IBBI/IPA/001/IP-P01224/2018-2019/11943)
Liquidator of Ramana Sri Logistics Pvt Ltd,
18-3-60/C, Road No.2, Srihari Colony, Santhi Nagar,
Tirupati -517201.

...Applicant/Liquidator

Date of pronouncement of Orders: 07.02.2023

Coram:

Justice Telaprolu Rajani, Member Judicial.

Parties/Counsels present:

For the Applicant : Mr.Y.Suryanarayana, Advocate

ORDER

1. This is an Application filed by the Applicant/Liquidator of Ramana Sri Logistics Pvt Ltd., under section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking for the following reliefs:

- i) to take on record the sale of the Corporate Debtor as a going concern;
- ii) to permit the Applicant to handover the Corporate Debtor to the Successful Bidder i.e., Ms. Vaishnavi Bharadwaj;
- iii) to direct the Registrar of Companies to change the status of the CD from “under Liquidation” to “active”, to let the successful bidder run the business effectively;
- iv) to allow the Board of Directors of the CD to be reconstituted as per the Companies Act, 2013 and that the following individuals be permitted to act as Directors of the Corporate Debtor duly appointed under the provisions of the Companies Act, 2013 and direct the Registrar of Companies to do all such acts, deeds and things that are necessary to appoint the individuals i.e., Mr. Vaishnavi Bharadwaj (as Managing Director) & Mr. Vamsi Krishna Reddy Eedula (as Director) of the Corporate Debtor, who are individuals recommended by the Successful Bidder, in order to enable the company to file the relevant returns required.
- v) to allow the names of the shareholders and the shareholding pattern of the Corporate Debtor as proposed by the Successful Bidder as follows:

S.No	Name of the Proposed Director	Designation
1.	Vaishnavi Bharadwaj	70 %
2.	Vamsi Krishna Reddy Eedula	30 %

- vi) to permit the Applicant to distribute the proceeds to the stakeholders after the disposal of the appeals viz., CA (AT) Ins.

343/2022, CA(AT) Ins. 203/2022 pending before the Hon'ble NCLAT, Chennai Bench.

- vii) to permit the Applicant to file an application under Regulation 45(3) (a) of IBBI (Liquidation Process) Regulations, 2016 for closure of the Liquidation process of the Corporate Debtor, after disposal of the appeals viz., CA (AT) Ins. 343/2022, CA (AT) Ins. 203/2022 pending before the Hon'ble NCLAT, Chennai Bench and I.A. No. 191 of 2022 pending before the Hon'ble Tribunal.

2. The following are the facts of the case briefly:

- i) The Company Petition i.e., CP (IB) No.174/10/AMR/2019 is filed under section 10 of the Insolvency and Bankruptcy Code, 2016 by **the Corporate Applicant** to initiate the Corporate Insolvency Resolution Process (CIRP) against **Ramana Sri Logistics Private Limited** (Corporate Debtor) was admitted by the Hon'ble Tribunal vide its order dated 15.11.2019 and Mr. Pavan Kankani was appointed as Interim Resolution Professional and later on, the said IRP was replaced by Mr. B. Naga Bhushan Bhagawati as Resolution Professional.
- ii) The Resolution Professional had filed an Application vide IA No. 09/2021 in CP (IB) No. 174/10/AMR/2019 under section 31(1)(a) read with section 60(5) of the IBC, 2016 for liquidation of the CD as no viable proposal was received for the revival of the Company and the same was allowed by this Tribunal vide its

order dated 05.01.2022 for liquidation of the CD and Ms. Kalpana G (erstwhile Liquidator) was appointed as the Liquidator, to conduct the Liquidation Process.

- iii) In the 4th Stakeholders Consultation Committee (SCC) meeting convened by the erstwhile Liquidator held on 19.07.2022, the SCC approved the sale of the CD as a going concern and also fixed the reserve price for selling the CD as a going concern.
- iv) The erstwhile Liquidator had issued an e-auction notice for the sale of the Company as a going concern vide notice dated 21.07.2022 announcing an e-auction to be conducted on 01.08.2022. In the said e-auction, the CD was sold as a whole as a going concern to the highest bidder Ms. Vaishnavi Bharadwaj w/o. Sri Vamsi Reddy for a sale consideration of Rs.37.60 Lakhs. It was observed that as per the valuation reports obtained by the erstwhile Liquidator the Corporate Debtor had only one vehicle i.e., Volvo Car bearing No. AP 39 C 0999.
- v) Subsequently, the erstwhile Liquidator filed an Application vide IA.154/2022 in CP (IB) No. 174/10/AMR/2019 under section 35(n) and Section 60(5) (c) of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking replacement of herself as Liquidator due to her personal inconvenience. Hence, this Tribunal, vide its order dated 03.08.2022 appointed Mr. Immaneni Eswara Rao as the Liquidator in the place of erstwhile Liquidator Ms.G. Kalpana.

- vi) The erstwhile liquidator had taken into account only one vehicle i.e., Volvo Car bearing No. AP 39 C 0999 for the sale of the CD as a going concern and the successful bidder also had bid taking into account the sole asset in the CD i.e., Volvo Car bearing registration No. AP 39 C 0999. However, it was observed by the Applicant, after taking charge as liquidator on 25.08.2022, that there were some more assets existing at the time of commencement of CIRP. Upon verification of valuation reports of GMR Sreekanth Babu dated 15.06.2020 and Chowhan Mothilal dated 23.06.2020 it was observed that two assets i.e., One Toyota Fortuner 3.0 L 4WD – AP 03 AU 9999 funded by Shriram City Union Finance Limited and one Volvo XC90 D5 R – AP 39 C 0999 funded by State Bank of India were existing as on CIRP commencement date.
- vii) As per the Information Memorandum submitted by the Resolution Professional Mr. Naga Bhushan Bhagawati, the CD contained the following assets as on CIRP Commencement date:

Particulars of the Asset	As on CIRP Commencement date i.e., 15th November 2019 (Provisional) Gross Block
Office Equipment	3,39,250/-
Furniture's and Fittings	2,42,396/-
Computers	3,80,370/-
Volvo Car – 1 (Reg. No. AP 39 C 0999)	91, 23, 028/-
Volvo Car – 2 (Reg. No. AP 03 CU 8888)	58,55,948/-

- viii) Toyota Fortuner Car No. AP 03 AU 9999 and Volvo Car No. AP 03 CU 8888 were not existing as per the valuation reports given after liquidation commencement date. On enquiries, it was informed to the Applicant that those two assets were sold and paid off to the secured financial creditors during CIRP period. The sale of the assets during the CIRP period is contrary to the provisions of the Code. The Applicant became the liquidator after the sale of the CD as a going concern and as a whole. Further, the assets sold during CIRP being vehicles, which are highly depreciable, the recovery of the same at this stage may not be feasible, after the lapse of almost 3 years.
- ix) After the e-auction on 01.08.2022, the Successful Bidder had expressed concern through emails to the Applicant over the presence of rodents in the assets i.e., car, which was in the physical possession of Bank of India that could damage the condition of the asset. In order to safeguard the asset, the Liquidator had handed over the possession of the asset to the Successful Bidder for safe custody after receiving the complete payment and after obtaining Indemnity Bond from the successful bidder.
- x) The Applicant had received instructions from the Successful Bidder stating that the Board of Directors of the CD be re constituted as per the Companies Act, 2013 and that two individuals i.e., Ms.Vaishnavi Bharadwaj (as Managing Director) & Mr.Vamsi Krishna Reddy Eedula (as Director) are to be

permitted to act as Directors of the Corporate Debtor duly appointed under the provisions of the Companies Act, 2013 and direct the Registrar of Companies to do all such acts, deeds and things that are necessary to appoint the following individuals as directors of the Corporate Debtor, who are individuals recommended by the Successful Bidder, in order to enable the company to file the relevant returns required.

- xi) The names of the shareholders and the shareholding pattern of the Corporate Debtor as proposed by the Successful Bidder shall be as the following:

S.No	Name of the Proposed Director	Designation
1.	Vaishnavi Bharadwaj	70 %
2.	Vamsi Krishna Reddy Eedula	30 %

- xii) An appeal has been preferred by the SCC member (Bank of India) against the Erstwhile IRP, before the NCLT, Chennai vide CA (AT) (Ins) No.203/2022 praying for dismissal of the order passed by this Tribunal in IA No.154/2020 of CP(IB) No. 174 of 2019 *inter-alia* challenging the remuneration fixed for the Erstwhile IRP, Mr. Pavan Kankani and the same is pending adjudication before the NCLAT, Chennai Bench.
- xiii) An appeal has been preferred the SCC member (Bank of India) against the Erstwhile Liquidator, before the NCLT, Chennai vide CA (AT) (Ins) No.343/2022 praying for dismissal of the order

passed in IA No. 154/2022 of CP(IB) No.147/2019 *inter-alia* challenging the remuneration fixed for the Erstwhile Liquidator, Ms. G Kalpana and the same is pending adjudication before the NCLAT, Chennai.

- xiv) The Applicant filed an application i.e., IA (IBC)/191/2022 before the Tribunal for fixation of his remuneration and contribution to be made by the stakeholders towards liquidation costs and the same is pending for adjudication before this Tribunal.

- xv) As per clause 2 of Regulation 42 of IBBI (Liquidation Process) Regulations, 2016, the liquidator shall distribute the proceeds from realization within ninety days from the receipt of the amount to the stakeholders. In the instant case, ninety days is expiring on 30.11.2022. The pendency of the above said appeals the distribution of funds realized cannot be carried out under section 53 of IBC, 2016 as distribution shall be subject to the outcome of the above appeals before the NCLAT Chennai Bench and I.A pending before this Tribunal. As per Clause 3 of Regulation 43 of IBBI (Liquidation process) Regulations, 2016, the insolvency resolution process costs, if any, & the liquidation costs shall be deducted before the distribution is made. Hence, unless the CIRP costs and Liquidation costs are quantified and deducted, the distribution cannot be made. It is for this reason the Applicant is not in a position to distribute the proceeds to the stakeholders within 90 days and file an application for closure of

liquidation process of the Corporate Debtor which has been sold as a going concern. Hence this Application.

3. Heard the Counsel for the Applicant. The Counsel submits that the prayers 6 & 7 are not required and not pressed.
4. In view of the above facts and circumstances, this Tribunal finds the reasons mentioned in the application valid and convincing. The prayers No. 1 to 5 in the application are allowed as prayed for.

Accordingly, IA(IBC)/368/2022 in CP (IB) No.174/10/AMR/2019 is disposed of.

Sd/- Dated 07.02.2023

JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu