



**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

IA (IBC) No.771/ 2026

In

CP(IB) NO. 645/7/HDB/2018

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

In the matter of M/s. Vibha Agro Tech Limited

BETWEEN:

M/S PRASAD SEEDS PVT. LTD.

Through its Authorised Representative
Hemanth Kumar Karumanchi
Office at: Sy.No.854, Industrial Area,
Medchal Village & Mandal, Rangareddy,
Hyderabad, Telangana- 501401

... Applicant

AND

1. Mr. Madasa Kumar

Resolution Professional of M/s Vibha Agrotech Ltd.
Flat No. 501, A&B Subhan Sirisampada
No.6-3-1090/A/1, Rajbhavan Road, Somajiguda
Hyderabad – 500083

2. Committee of Creditors

Through Mr. Madasa Kumar
Resolution Professional of M/s Vibha Agrotech Ltd.

...Respondents

Date of Order: 22.05.2026



Coram:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Parties/Counsels:

For Applicant : Mr. Y. Suryanarayan, Advocate along with
Ms. Devangi Kariya, PCS
Resolution Professional : Mr. Madasa Kumar, RP
For Respondent No.1/RP : Mr. GP Yash Vardhan, Advocate

1. The present application is filed by M/s Prasad Seeds Pvt. Ltd¹, under section 60(5) of Insolvency and Bankruptcy Code², 2016 r/w Rule.11 of NCLT Rules, 2016, against the Respondents, inter alia, seeking for the following relief:
 - i) Permit and direct the Committee of Creditors of the Corporate Debtor to consider restoration of the Corporate Insolvency Resolution Process.
 - ii) In the event the Committee of Creditors, with the requisite majority, resolves to restore the CIRP, pass appropriate orders restoring the Corporate Insolvency Resolution Process of the Corporate Debtor for such further period as this Tribunal may deem fit.

Case of the Applicant

2. It is the case of the Applicant, that this Tribunal vide order dated 05.06.2023 admitted the M/s Vibha Agrotech Ltd³ into Corporate

¹ Applicant

² Code

³ Corporate Debtor



Insolvency Resolution Process (CIRP) and thereafter vide order dated 21.02.2025 restarted the CIRP proceedings.

3. Pursuant to restart of CIRP, a fresh Form-G dated 29.04.2025 was published inviting Expression of Interests (EOIs) and thereafter a list of Prospective Resolution Applicants was circulated vide e-mail dated 26.05.2025, wherein the name of the Applicant was also included. However, the Applicant could not submit a Resolution Plan at the relevant point of time due to business encumbrances.
4. That the Corporate Debtor, being engaged in a specialized and technology-driven sector, derives substantial value from its intangible assets including technical processes, intellectual capital, operational systems, vendor relationships and market goodwill and that the Applicant, being engaged in the same line of business and possessing sector-specific expertise, technical know-how, operational capabilities and market linkages, is in a position to effectively revive the Corporate Debtor as a going concern.
5. That the Applicant being interested in revival of the Corporate Debtor had prepared a Demand Draft dated 06.04.2026 for a sum of Rs.29 Crores in favour of SBI, being the lead banker, for placing the same before the Committee of Creditors in consideration of submission of a Resolution Plan, thereby demonstrating its bona fide intent and financial capability towards value maximization, preservation of enterprise and revival of the Corporate Debtor as a going concern.
6. That upon coming to know about the pendency of the liquidation application, the Applicant has approached this Adjudicating Authority by filing the present Application seeking restoration of CIRP with a view to preserve the Corporate Debtor as a going concern and to achieve value maximization in terms of the objectives of the Code.
7. It is the specific case of the applicant that the amendment to Section 33 of the Code permitting restoration of CIRP prior to passing of



liquidation order, the Corporate Debtor continues to remain amenable to revival, particularly when the liquidation application is only reserved for orders and no liquidation order has yet been passed.

8. According to the Applicant, liquidation would result in destruction of enterprise value, business continuity and stakeholder confidence, whereas revival through CIRP would preserve and enhance the value of the Corporate Debtor for the benefit of all stakeholders.
9. The Applicant has therefore submitted that the present case constitutes a fit case for exercise of jurisdiction by this Tribunal to advance the object of resolution over liquidation and accordingly prayed for restoration of CIRP and consideration of its proposal by the Committee of Creditors in the interest of justice, equity and value maximization.

Case of the Respondents No.1 & 2:

10. The present Counter has been filed by Respondent No.1/Resolution Professional on behalf of Respondent No.2/Committee of Creditors pursuant to the decision taken in the 19th CoC Meeting held on 14.05.2026, wherein the CoC resolved not to restore or continue the CIRP of the Corporate Debtor and further resolved to proceed with liquidation proceedings and authorize the Resolution Professional to file the present Counter.
11. The respondents contended that the Applicant being merely a Prospective Resolution Applicant, has no locus to seek directions against the CoC for restoration of CIRP of the Corporate Debtor.
12. It is the case of the Respondents that though the Applicant had submitted an Expression of Interest pursuant to Form-G dated 29.04.2025, has failed to submit any Resolution Plan within the CIRP process and also failed to respond to the subsequent Form-G published on 03.09.2025.



13. The Applicant has failed to act within the timelines prescribed under the CIRP, and despite being aware that the CIRP period had long expired and the CoC had already resolved to proceed with liquidation, the Applicant cannot now seek revival/restoration of CIRP after an unexplained delay of nearly one year.
14. The Respondents have further contended that the scheme of the Code clearly contemplates that the decision relating to continuation of CIRP, consideration of resolution plans or proceeding with liquidation is a matter falling within the commercial wisdom of the CoC, subject to the provisions of the Code and satisfaction of this Tribunal.
15. It is contended that the amendment to Section 33 of the Code merely enables the Adjudicating Authority, in appropriate cases, to consider restoration of CIRP prior to passing of liquidation order and does not confer any vested right upon third parties to seek revival of CIRP contrary to the commercial wisdom of the CoC. It is further contended that the amendment contemplates restoration only upon an application by the CoC with not less than 66% voting share and admittedly no such application has been made in the present case.
16. The CoC, in its 19th Meeting held on 14.05.2026 with 97.31% voting share, upon detailed deliberations on the present IA, resolved not to restore or continue the CIRP and to proceed with liquidation of the Corporate Debtor, recording that there was no possibility of further continuation of CIRP.
17. The Respondents further contended that the CIRP had continued for 714 days, far beyond the statutory timeline prescribed under the Code and despite repeated opportunities, multiple Form-G publications and consideration of various Resolution Plans, no viable Resolution Plan could be approved. Accordingly, the CoC, in exercise of its commercial wisdom with 97.31% voting share, resolved not to restore or continue the CIRP and to proceed with liquidation of the Corporate Debtor.



Rejoinder:

18. Reiterating the facts submitted in the Application, the Applicant additionally submitted that that the Corporate Debtor is capable of revival as a going concern and since the Applicant is already engaged in the same line of business, revival through the Applicant would enhance the prospects of successful resolution, value maximization, continuity of business operations and preservation of employment.
19. Further, that the recent amendment to Section 33 of the Code specifically contemplates restoration/continuation of CIRP even after expiry of CIRP period and before passing of liquidation order and the said amendment is in consonance with the settled principle that liquidation is only a measure of last resort after all efforts for resolution stand exhausted.
20. It is further contended that in the event the Corporate Debtor is pushed into liquidation, there is every likelihood of piecemeal sale of the assets of the Corporate Debtor, which would substantially erode the enterprise value of the Corporate Debtor and defeat the objective of value maximization contemplated under the Code.
21. Further, learned counsel for the Applicant submitted that the primary object of the Insolvency and Bankruptcy Code, 2016 is revival of the Corporate Debtor and value maximization and that liquidation is only a measure of last resort and in support of the said contention relied upon the judgments of the Hon'ble Supreme Court:
 - i) *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors.*, (2019) 4 SCC 17,
 - ii) *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors.*, (2019) ibclaw.in 07 SC and
 - iii) *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta & Ors.*, (2018) ibclaw.in 31 SC



Findings & Decision:

22. We have heard Mr. Y. Suryanarayan, learned counsel for the Applicant along with Ms. Devangi Kariya, PCS, Mr. Madasa Kumar, Resolution Professional and Mr. GP Yash Vardhan, learned counsel for Respondent No.1/Resolution Professional and perused the material available on record.
23. Admittedly, this Tribunal vide order dated 05.06.2023 admitted the Corporate Debtor into CIRP and thereafter restarted the CIRP process vide order dated 21.02.2025.
24. It is evident that pursuant to the restart of CIRP, Form-G dated 29.04.2025 was published and the Applicant had submitted an EOI and was included in the list of Prospective Resolution Applicants, however, no Resolution Plan was submitted by the Applicant and even pursuant to the subsequent Form-G published on 03.09.2025, the Applicant did not participate in the process.
25. Further, the CoC, in its 16th CoC Meeting, did not accept the revised Resolution Plan submitted by M/s Verity Knowledge Solutions Private Limited with requisite 66% voting share and consequently resolved to initiate liquidation proceedings and authorized the Resolution Professional to file appropriate application before this Tribunal and thereafter, in the 18th CoC Meeting, deliberated upon the applicability of Section 33(1)(a) of the Code in relation to the liquidation proceedings.
26. At the stage when the liquidation application was reserved for orders, the Applicant approached this Tribunal on 05.05.2026 contending that the Applicant and the Corporate Debtor are engaged in the same line of business and that the Corporate Debtor possesses substantial enterprise value and is capable of revival as a going concern.
27. Further, the Applicant is claiming to be interested in revival of the Corporate Debtor and in furtherance thereof had prepared a Demand



Draft for a sum of Rs.29 Crores and also submitted that the recent amendment to Section 33 of the IBC permits restoration of CIRP prior to passing of liquidation order.

28. On the contention that the amendment to Section 33 empowers this Tribunal to restore the CIRP, though the newly amended provision has not yet come into force, it is clear from a plain reading of the newly inserted sub-section (1A) to Section 33 of the Code that while the Adjudicating Authority is empowered to consider restoration/continuation of CIRP prior to passing of liquidation order, such consideration can arise only upon an application being made by the Committee of Creditors with not less than 66% voting share.
29. The legislative intent behind insertion of the said provision appears to be to provide an additional opportunity to the CoC to explore resolution even after expiry of the CIRP period by granting a further period not exceeding 120 days and the requirement of approval by not less than 66% voting share clearly indicates that the discretion to seek restoration of CIRP rests with the CoC in exercise of its commercial wisdom. The present application is not been filed by the CoC neither the CoC has resolved to revive CIRP.
30. Coming to the other contentions, it is observed that despite inclusion of the Applicant in the list of Prospective Resolution Applicants, no Resolution Plan was submitted by the Applicant. Even pursuant to the subsequent Form-G, the Applicant did not participate and approached this Tribunal only after the liquidation application was reserved for orders, merely contending that a Demand Draft for Rs.29 Crores had been prepared, for revival of the Corporate Debtor.
31. Further, during the course of hearing, learned counsel for the Applicant submitted that he was unclear as to whether the said Demand Draft was still available for consideration and also that the Demand Draft was in favour of SBI SAM Branch and not in favour of the CIRP account of the Corporate Debtor. In such circumstances, the



said contention cannot be accepted, particularly when the Applicant was fully aware that the CIRP proceedings had been continuing for a substantial period.

32. Moreover, the present Application was placed before the CoC in its 19th CoC Meeting and the CoC, after detailed deliberations and with 97.31% voting share, resolved not to restore or continue the CIRP of the Corporate Debtor and to proceed with liquidation proceedings.
33. The Hon'ble Supreme Court, in a plethora of judgments, has consistently reiterated that the commercial wisdom of the CoC enjoys primacy and is not amenable to judicial review except on limited grounds.
34. Therefore, we are of the view that though the CoC had considered the contentions raised by the Applicant, still consciously chose to proceed with liquidation of the Corporate Debtor and the said decision being a commercial decision taken by the CoC, we are not inclined to direct the Committee of Creditors to consider restoration of CIRP, particularly when there are no valid circumstances warranting interference with the decision of the CoC.

Accordingly, the present Application is dismissed and disposed of.

Sd/-

Sanjay Puri
Member (Technical)

Sd/-

Rajeev Bhardwaj
Member (Judicial)