

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

IA/1186/IB/2020 in IBA/243/2019 filed
under Section 33 (2) of the Insolvency
and Bankruptcy Code, 2016 read with
Rule 11 and 32 of NCLT Rules, 2016

In the matter of **M/s. Thiru Arooran Sugars Limited**

Mr. R. Raghavendran
Resolution Professional of
M/s. Thiru Arooran Sugars Limited
Flat No.3 Dhruvatara Apartments,
241, Dr. Rajendraprasad Road,
Tatabad, Coimbatore - 641 012

..... Applicant /RP

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For the Applicant : *Shri. B. Dhanaraj, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 08.04.2021

The above Application is filed by the Resolution Professional
Mr. R. Raghavendran appointed by this Tribunal, seeking for the
liquidation of the Corporate Debtor under Section 33 (2) of the
Insolvency and Bankruptcy Code, 2016 read with Rule 11 & 32 of
NCLT Rules, 2016.

2. From the averments made by the Applicant, it is evident that the Corporate Insolvency Resolution Process (hereinafter called as "CIRP") of the Corporate Debtor was initiated by this Tribunal vide order dated 07.06.2019 passed in IBA/243/2019 and subsequently the Applicant herein was appointed as IRP on the same day. Pursuant to this, the Applicant had caused paper publication one in "The Hindu" (English) Chennai, Thanjavur and Cuddalore Edition and other in Dinamalar (Tamil) circulating in Chennai, Thanjavur and Cuddalore on 10.06.2019, by fixing the last date for filing the claim as 21.06.2019. It is averred that, in the 1st meeting of CoC held on 06.07.2019, the present IRP was appointed as the Resolution Professional by the CoC members through e-voting having 82.87% voting shares and written consent was also obtained from IRP for acting as the Resolution Professional. Thereafter, the Applicant constituted the CoC with the Financial Creditor, who initiated the CIRP as against the Corporate Debtor as the members of the CoC and conducted the first meeting of the CoC on 06.07.2019.



3. It is averred in the application that after completion of the 1st CoC meeting, the Applicant, after receiving an undertaking from the members of the CoC to the effect that they shall maintain confidentiality of such information being produced to them, has submitted the Information Memorandum to the members of the CoC and Expression of Interest on 03.06.2020. In the 13th CoC meeting convened on 25.08.2020, the members discussed about the resolution plans submitted and the CoC members have also approved the appointment of Registered Valuers.

4. It is further averred in the application that the Applicant had appointed two registered valuers each for determining the fair value and the liquidation value of the Land, Building and Plant and Machinery of the Corporate Debtor and since there were no financial assets in the Corporate Debtor, no Registered valuer in respect of the financial assets was appointed by the Applicant. It is evident from Form-H filed by the Applicant that the *Fair Value* for the Land and Building is arrived at Rs.327,10,68,200/- and the



Liquidation Value for the Land and Building is arrived at Rs.183,19,65,909/-.

5. The Applicant has averred that the Expression of Interest, duly approved by the CoC, was published in Form G in two newspapers on 03.06.2020. Pursuant to Regulation 12(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, M/s. KALS Distilleries Private Limited has submitted their claim to the Applicant along with the necessary proof. The Applicant requested the resolution applicant to submit the additional documents, in support of the Resolution Plan by 10.08.2020, failing which, it was informed that the CoC will decide on merits. In the 23rd CoC meeting convened on 30.11.2020, the claim of the Resolution Applicant has been rejected by 76.02% of voting share by financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations. The voting was held through e-voting from 05.12.2020 to 07.12.2020.



6. Thereafter, the applicant herein filed an application for seeking extension of the time limit to 330 days excluding COVID lockdown and the extended period of 330 days expired on 09.12.2020. The present application for liquidation of the Corporate Debtor was filed by the applicant wherein it was informed that the CoC members with 76.02% voting share chose to vote against the plan and hence, deemed to have voted for the liquidation of the Corporate Debtor as per resolution dated 30.11.2020.

7. Taking into consideration the provisions of Section 33 of IBC, 2016 and in the absence of any opposition to the Application from the Promoters / Directors 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. The Learned Counsel for the Applicant has submitted that in the 24th CoC convened on 09.12.2020, the members holding together 89.29% voting share unanimously decided to appoint

Mr. R. Sadasivan (Regn.No.IBBI/IPA/-001/IP-00108/2017-2018/10215) as Liquidator of the Corporate Debtor.

9. This Adjudicating Authority granted exclusion and extension of CIRP period. However, it is placed that no viable Resolution Plan was voted at CoC. Hence, this Adjudicating Authority has left with no option but to order Liquidation. Taking into consideration, the written consent dated 06.01.2021 of the Applicant / RP to act as a Liquidator filed on 28.01.2021, we hereby appoint **Mr. Ramakrishnan Sadasivan**, having IBBI Regn.No. IBBI/IPA-001/IP-P00108/2017-18/10215 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 similar 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, viz., company-in-liquidation.

10. Accordingly, this IA/1186/IB/2020 is hereby **disposed of** with the aforesaid terms.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

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(R. SUCHARITHA)
MEMBER (JUDICIAL)

KNP