

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

IA/41(CHE)/2021 in IBA/915/2019 filed
under Section 33 (1) (a), 33(2) & 34(1) of
the Insolvency and Bankruptcy Code,
2016 read with Rule 11 of the NCLT
Rules, 2016

In the matter of M/s. S & S Industries and Enterprises Limited

CA. Mahalingam Suresh Kumar
(Resolution Professional of
M/s. S & S Industries and Enterprises Limited)
M/s. SPP & Co., Chartered Accountants,
No.27/9, Nivedh Vikas, Pankaja Mill Road,
Puliyakulam, Coimbatore – 641 045

..... Applicant/RP

CORAM:

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

For the Applicant/RP : *Shri. A.G. Sathyanarayana, Advocate*

ORDER


Per: R.SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 09.04.2021

This Application has been filed under Section 33 (1) (a), 33 (2)
& 34 (1) of the Insolvency and Bankruptcy Code, 2016 read with Rule
11 of the NCLT Rules, 2016 by the Applicant/RP **CA. Mahalingam**

Suresh Kumar seeking reliefs as follows:

IA/41(CHE)/2021 in IBA/915/2019
In the matter of M/s. S & S Industries and Enterprises Limited



- a. *That this Hon'ble Adjudicating Authority may be pleased to pass an order for Liquidation of the Corporate Debtor namely M/s. S & S Industries and Enterprises Limited;*
- b. *That this Hon'ble Adjudicating Authority may be pleased to pass an order by appointing Shri C.A. Mahalingam Suresh Kumar, Resolution Professional (IBBI/IPA-001/IP-P00110/2017-2018/10217) as Liquidator for administering the Liquidation Process of the Corporate Debtor".*

2. The Counsel for the Applicant states that the main IBA/915/2019 was filed by the Financial Creditor namely M/s. Stressed Assets Stabilization Fund ("SASF") under Section 7 of the Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor namely M/s. S & S Industries and Enterprises Limited. By order dated 30.09.2019, this Adjudicating Authority ordered for commencement of CIRP by appointing the Applicant herein CA. Mahalingam Suresh Kumar as Interim Resolution Professional.

3. In the 1st CoC meeting dated 30.10.2019, the CoC appointed the Applicant (erstwhile IRP) as Resolution Professional and



subsequently the same was confirmed by this Adjudicating Authority.

4. The Counsel for the Applicant states that he has issued advertisement one in English newspaper "The New Indian Express" and another in Tamil (Vernacular) language newspaper "Dhinamani" both dated 02.10.2019.

5. The Counsel for the Applicant states that the Applicant also received claims from various stakeholders and appointed Four IBBI Registered Valuers for valuation of the assets of the Corporate Debtor. Accordingly, Valuers have submitted their report and the same was placed before the CoC in the 2nd CoC meeting held on 19.12.2019.

6. The Counsel for the Applicant further states that the Applicant has prepared the Information Memorandum and the same was circulated to the CoC members and Expression of Interest ("EOI") i.e. Form-G was floated.



7. The Applicant Counsel submits that Form-G was also published one in English newspaper "The New Indian Express" and another in Tamil (Vernacular) language newspaper "Dhinamani" both dated 29.12.2019. Further, no resolution plans were received by the CoC for consideration.

8. The Applicant Counsel submits that further to the recommendation of the CoC, another publication of Form-G was issued in the aforesaid newspapers both dated 11.03.2020. Thereafter, in the 3rd CoC meeting dated 28.03.2020, the CoC has approved for seeking an extension of another 90 days of the CIRP period. In this connection, the Applicant has filed IA/684/IB/2020 and the same was allowed by this Adjudicating Authority vide Order dated 21.10.2020 by extending the CIRP period for another 90 days from 21.10.2020 and also excluded the period from 25.03.2020 to 20.10.2020, lost due to Covid-19 pandemic.

9. The Applicant Counsel submits that in the CoC meeting held on 08.12.2020, it was decided to seek for liquidation of the Corporate




Debtor and also for appointment of the Applicant herein i.e. CA. Mahalingam Suresh Kumar as the Liquidator.

10. The Applicant Counsel further submits that the Liquidator has submitted his consent in Form-AA dated 25.11.2020, which is enclosed at Page No.117 of the application.

11. The Applicant Counsel further submits that no resolution plan was received and also the extended period of CIRP period was ended on 19.01.2021.

12. The Applicant Counsel further submits that in the 6th CoC Meeting, it was decided to file an application before this Adjudicating Authority for liquidation of the Corporate Debtor.

13. Since no resolution plan was received inspite of adequate efforts having been put in by the Applicant and the 270 days of CIRP period having ended on 19.01.2021, this Adjudicating Authority is left with no option but to order for liquidation of the Corporate Debtor. Taking into consideration, the written consent dated



25.11.2020 of the Applicant/RP to act as a Liquidator filed on 29.12.2020, we hereby appoint **CA. Mahalingam Suresh Kumar** having Regn. No. (IBBI/IPA-001/IP-P00110/2017-2018/10217) 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.

14. Accordingly, this IA/41(CHE)/2021 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)

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