



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH, BENGALURU**  
**(Exercising powers of Adjudicating Authority under  
The Insolvency and Bankruptcy Code, 2016)**  
**(Through Web-Based Video Conferencing)**

**I.A (Liq.) No.13 of 2024**  
in  
**C.P. (IB) No.91/BB/2023**  
Application U/s. 33(2) of the Insolvency and  
Bankruptcy Code, 2016 R/w Rule 11 and  
Rule 32 of NCLT Rules, 2016

**In the matter of I.A.(Liq) No.13/2024:**

**Shri TVS Siva Prasad**  
Resolution Professional of  
Hi-Tech Air Power Private Limited,  
Flat No. C-339, Mahaveer Zephyr,  
Kodi Chikkanahalli,  
Bangalore - 560076

..... Applicant

**In the decided matter of:**

Mr. Harish B & Ors

.....Petitioner/ Financial Creditor

**Versus**

M/s. Hi-Tech Air Power Private Limited

.....Respondent/Corporate Debtor

**Order Delivered on: 03/02/2025**

**Coram:** 1. Hon'ble Shri K. Biswal, Member (Judicial)  
2. Hon'ble Shri Ravichandran Ramasamy, Member (Technical),

**Parties/Counsels Present:**

For the Applicant: Shri Ashik G. Swamy  
The RP : Mr. TVS Siva Prasad



## **ORDER**

1. This Application has been filed on 24.10.2024 by Shri TVS Siva Prasad Resolution Professional of M/s. Hi-Tech Air Power Private Limited under sub-section (2) of Section 33 of the Insolvency and Bankruptcy Code, 2016 (“IBC/Code”), read with rule 11 and 32 of the National Company Law Tribunal Rules, 2016 for passing an order of Liquidation of M/s. Hi-Tech Air Power Private Limited (“Corporate Debtor”) and appoint Shri TVS Siva Prasad as the Liquidator of the Corporate Debtor.
2. The Brief Facts of the present case are as follows:-
  - (a) The Company Petition bearing C.P (IB) No.91/BB/2023 was filed under Section 7 of the Code by Mr. Harish B & Ors. to initiate Corporate Insolvency Resolution Process (“CIRP”) against the Corporate Debtor and the same was admitted by this Tribunal on 12.01.2024 and Shri Nagaraj Emmadi was appointed as the Interim Resolution Professional of the Corporate Debtor. However, Shri Nagaraj Emmadi expressed his inability to continue to act as the Interim Resolution Professional of the Corporate Debtor and thus this Tribunal vide order dated 03.06.2024 in IA No. 378/2024 appointed Shri TVS Siva Prasad in place of Shri Nagaraj Emmadi as the Interim Resolution Professional (“IRP”) of the Corporate Debtor.
  - (b) After receiving the Order of appointment of the Applicant as the IRP of the Corporate Debtor, the IRP issued a Public Announcement in the newspapers in Form-A on 01.07.2024 as per Regulation 6 of the Insolvency Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016. Further, the IRP constituted the Committee of Creditors (“CoC”) on 22.07.2024 and filed the Report Certifying Constitution of Committee of Creditors before this Tribunal in terms of Regulation 13 (2) (d) of the Insolvency Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, dated 25.07.2024.
  - (c) The first meeting of the CoC was held on 29.07.2024 wherein the IRP proposed himself to be appointed as the Resolution



Professional of the Corporate Debtor which was approved by the CoC with 100% voting consisting of the following members:-

Sl. No.	Name of the Financial Creditor & (Secured & Unsecured)	Amount Claimed (Rs.)	Amount Admitted (Rs.)	% of Voting share in the CoC	Secured/ Unsecured Creditors
1.	Harish B	17,20,000	17,20,000	13.13	Unsecured Creditors
2.	Chandragupta Elavarthy	29,30,000	29,30,000	22.37	
3.	Nanda Kumar N	84,50,000	84,50,000	64.5	
	<b>TOTAL</b>	<b>1,31,00,000</b>	<b>1,31,00,000</b>	100%	

(d) The appointment of Mr. TVS Siva Prasad as the Resolution Professional of the Corporate Debtor by the CoC was communicated to this Tribunal vide order dated 03.09.2024 in **IA 604/2024**.

(e) As per CIRP timelines, the Applicant appointed Six registered valuers to determine and submit the fair and liquidation value of the all three classes of the Corporate Debtor in accordance with Regulations 27 and 35 of the Insolvency Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(f) The 2<sup>nd</sup> meeting of the CoC of the Corporate Debtor was held on 10.09.2024 in which the CoC after due deliberation unanimously with 100% voting resolved in favour of initiating the liquidation of the Corporate Debtor under the provisions of the IBC since the Corporate Debtor does not possess any substantial assets. It is further submitted that the Members of CoC in the 2<sup>nd</sup> meeting held on 10.09.2024 unanimously approved the appointment of Shri TVS Prasad as Liquidator of the Corporate Debtor as per section 34 of the Code. Further, the CoC also approved a monthly professional fee of Rs.1,00,000 for the Applicant to serve as the Liquidator of the Corporate Debtor.

(g) Therefore, this present application under sub-section (2) of Section 33 of the Code has been filed for Liquidation of the Corporate Debtor.



3. We have carefully considered the submissions made in the application by the Applicant and have also perused the records.
4. The Provisions of Sub-Sections (1) and (2) of Section 33 of the Code are as follows:-

**“33. Initiation of liquidation.-**

(1) *Where the Adjudicating Authority, —*

- a) *before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*
- b) *rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall*
  - (i) *pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*
  - (ii) *issue a public announcement stating that the corporate debtor is in liquidation; and*
  - (iii) *require such order to be sent to the authority with which the corporate debtor is registered.*

(2) *Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).”*

5. **Prescribed period for filing application:-** In the present case, the Petition under Section 7 of the Code read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 was admitted on 12.01.2024. However on account of Change of IRP, exclusion of CIRP period from 12.01.2024 to 12.06.2024 was granted by this Tribunal vide order dated 03.09.2024 in **IA 608/2024**. The present Application is filed on 24.10.2024 i.e., before the expiry of the CIRP period. Hence, this Application shall be considered under sub-section (2) of Section 33 of the Code.
6. **Appointment of Liquidator:-** It is submitted that the members of CoC in their 2<sup>nd</sup> meeting held on 10.09.2024 unanimously approved the appointment of Shri TVS Prasad as Liquidator of the Corporate Debtor as



per section 34 of the Code. Therefore to conduct the process of liquidation of the Corporate Debtor, this Tribunal hereby approves the appointment of **Shri TVS Prasad** bearing **IBBI Registration No. IBBI/IPA-003/ICAIN-00406/2021-2022/14051**, Email id-sipra5860@gmail.com as the Liquidator of the Corporate Debtor.

7. **Fees of the Liquidator [Regulations 39D of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]** - The fee payable to the Liquidator is as per the Resolution passed the 2<sup>nd</sup> meeting of the Committee of Creditors in reference to the Regulation 4(1) of the IBBI (Liquidation Process) Regulations, 2016 will be Rs.1,00,000 per month.
8. In view of the satisfaction of the conditions provided under sub-section (2) of Section 33 of the Code, the Corporate Debtor- **Hi-Tech Air Power Private Limited** to be liquidated in the manner as laid down in Chapter III of the Code. Some of the directions are noted as under:-
- (i) That as per sub-section (5) of Section 33 of the Code and subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted against the Corporate Debtor, except with the prior approval of the Adjudicating Authority;
  - (ii) That the provisions of sub-section (5) of Section 33 of the Code shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any Financial sector regulator;
  - (iii) That this order of liquidation under Section 33 of the Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator;
  - (iv) That all the powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator;
  - (v) That the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provision of the



Section 19 of the Code shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the Interim Resolution Professional;

- (vi) That the Liquidator shall publish public announcement in accordance with Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and in Form B of Schedule II of the said Regulations within five days from receipt of this order calling upon the stake holders to submit their claims as on liquidation commencement date and provide the last date for submission of claim which shall be 30 days from the liquidation commencement date.
- (vii) That the announcement shall be published in accordance with Regulation 12(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (viii) That the Liquidator shall file his preliminary report within 75 days and to file regular progress reports as per Regulation 15 thereafter in accordance with Regulation 13 of the Insolvency and Bankruptcy Board of India (Liquidation Process), Regulations, 2016.

9. Accordingly, with the above directions **I.A (Liq.) No.13 of 2024** in **C.P. (IB) No.91/BB/2023** stands **allowed** and **disposed of**.

10. Copy of this order to be supplied to the Ld. Counsel for the Liquidator as well as to the Registrar of Companies, Bengaluru forthwith. The Registry is also directed to send a copy of this order to the Liquidator at his e-mail address.

-Sd/-

**(RAVICHANDRAN RAMASAMY)**  
**MEMBER (TECHNICAL)**

-Sd/-

**(K.BISWAL)**  
**MEMBER (JUDICIAL)**