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**NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH - I  
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 19-11-19**

**PRESENT: SHRI R VARADHARAJAN, MEMBER-JUDICIAL  
SHRI. ANIL KUMAR B, MEMBER (TECHNICAL)**

**APPLICATION NUMBER : MA/1144/2019**

**PETITION NUMBER : CP/872/IB/2018**

**NAME OF THE PETITIONER(S) : CHINNAM POORNA CHANDRA RAO**

**NAME OF THE RESPONDENT(S) : VICTORY ELECTRICALS LTD**

**UNDER SECTION : 33(2) OF IBC**

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	

1. A. G. Sathyanarayana For Applicant Adh. Secy

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH – I, CHENNAI**

**MA/1144/2019** in CP/872/IB/2018  
filed under *Sections 33 (2)* of the  
Insolvency and Bankruptcy Code,  
2016

In the matter of ***M/s. Victory Electricals Ltd.***

**Mr. CHINNAM POORNA CHANDRA RAO,**  
IBBI Reg. No. IBBI/IPA-003/IP-N000119/2017-18/11298  
Flat No.101, TVS Mahathi Apts., Lanco Hills Road,  
Opp. To Sampoorna Super Market, Behind SR Digi School,  
Manikonda,  
Hyderabad 500089

*... Applicant /Resolution Professional*

– Vs –

**M/s. VICTORY ELECTRICALS LTD.,**  
850/64B, T.H. Road, Near Royal Enfield,  
Thiruvotriyur, Chennai.  
TN 600 019, India.

*Order delivered on 19<sup>th</sup> November, 2019*

CORAM :

**R. VARADHARAJAN, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Applicant : Mr. A.G. Sathyanarayana, Counsel

**ORDER**

***Per:* R. VARADHARAJAN, MEMBER (JUDICIAL)**

**Heard and dictated in open Court**

1. The above Application is filed by the Resolution Professional appointed by this Tribunal, seeking for the liquidation of the Corporate Debtor under Section 33 (2) of the

IBC, 2016. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated and Mr. S. Sivarama Krishnan was appointed as IRP on 10.04.2019 and he caused public announcement calling for the claimants from the Creditors of the Corporate Debtor by virtue of publication dated 14.10.2019, pertaining to that the CoC was constituted on 03.05.2019 and the 1<sup>st</sup> meeting of the CoC was held on 10.05.2019 and thereafter totally 5 meetings of the CoC were held on 10.05.2019, 21.06.2019, 12.07.2019, 30.08.2019 and 17.09.2019 which was adjourned to 23.09.2019 when the resolution for liquidation was passed after rejection of the Resolution Plan.

2. It is also evident from the averments as averred in the Application that subsequent to the appointment of the IRP based on the instructions of the COC, the IRP was changed to the RP viz., Mr. Chinnam Poorna Chandra Rao and the date of the appointment of the RP is stated to be on 29.05.2019. It is also evident that in the "Invitation of Expression of Interest" to ascertain the value viz., the fair value and the liquidation value of the assets of the Corporate Debtor, the Registered Valuers were appointed on 27.05.2019 and thereafter 'Expression of Interest' was invited on 24.06.2019 and invitation of Resolution Plan was called on 24.07.2019 and the final list of the eligible

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prospective Applicant has been published on 03.08.2019 and the last date for the submission of the Resolution Plan was stated on 23.08.2019.

3. It is averred in the Application that one M/s. KDA Ispat Private Limited has submitted the Resolution Plan. However, since the Resolution Plan as submitted by the said Resolution Applicant was not acceptable to the Members of the CoC, based on commercial decision in the meeting which was were held by the CoC, it was decided to reject the Resolution Plan, as submitted by the Resolution Applicant vide the resolution passed on 23.09.2019 and in the said meeting, recommendation has also been made by the CoC not to seek for further extension of the CIRP of the Corporate Debtor but on the other hand to seek for liquidation of the Corporate Debtor in terms of the provisions under Section 33(2) of the IBC, 2016 and hence this Application is taken up for liquidation of the Corporate Debtor.

4. During the course of submissions, Learned Counsel for the Resolution Professional brings to the notice of this Tribunal that the fair value / liquidation value of the assets of the Corporate Debtor has been arrived at by the Registered Valuer as appointed by the CoC as Rs.3993.81 lakh and Rs.2795.17 lakh respectively.



5. It is also highlighted by Counsel for the Resolution Professional that the value offered by the Resolution Applicant in the Resolution Plan was only 1/3<sup>rd</sup> of the liquidation value, even after the Resolution Applicant was given a chance to make an improved offer which was not forthcoming. Hence the CoC was forced to reject the Resolution Plan and passed the resolution on 23.09.2019.

6. Learned Counsel for the Liquidator also apprised this Tribunal that total claims which have been received from the Creditors viz., Financial Creditors, Operational Creditors and Creditors other than Financial Creditors or Operational Creditors have been tabulated and given at Page No.101 of the typed set filed along with the Application. Perusal of it discloses as follows:-

<b>Sl. No.</b>	<b>Class of Creditors</b>	<b>Amount Claimed (Rs.)</b>	<b>Amount of claim admitted (Rs.)</b>
1	Financial Creditors (who submitted claims in Form C)	741,37,95,636	741,37,95,636
2	Operational Creditors (who submitted claims in Form B)	3,15,79,233	1,23,92,619
3	Creditors other than Financial Creditors or Operational Creditors (who submitted claims in Form F)	10,19,67,016	30,61,588
<b>Total</b>		<b>754,73,41,885</b>	<b>742,92,49,843</b>

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7. It is evident from the above that as against the claim of Rs.754.73 Crores and the admitted amount of Rs.742.92 Crores, the liquidation value of the Corporate Debtor is only 27.95 Crores, clearly establishing that there is a gross mismatch between the assets and liabilities of the Corporate Debtor and the Insolvency of the Corporate Debtor is manifestly evident from the above figures.

8. Since the Resolution Plan has been rejected by the CoC based on commercial considerations and no further resolution plan has been received on or before the expiry of the CIRP period, taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to the Application, either from the Promoters of the Corporate Debtor or from the Resolution Applicant 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.

9. Upon a query posed to the Learned Counsel for the Resolution Professional as to whether he is willing to act as a liquidator, if appointed by this Tribunal, Learned Counsel for the Resolution Professional submitted that the resolution passed by



the CoC approving the RP to act as a Liquidator is also extracted and that the written consent have also been placed on record at Page No.102 of the Typed Set filed along with the Application, perusal of it shows that the RP has given a written consent by the signed letter dated 01/10/2019 to act as a Liquidator of the Corporate Debtor, if appointed by this Tribunal. In the circumstances, **Mr. Chinnam Poorna Chandra Rao**, IBBI/IPA-003/IP-N000119/2017-2018/11298, Mobile: 9810045108 is appointed as the Liquidator of the Corporate Debtor.

- 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 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 like



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 governs 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.

j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps.

10. The Application stands ***disposed of*** with the aforesaid terms.

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**(ANIL KUMAR B)**  
MEMBER (TECHNICAL)

-SD-

**(R.VARADHARAJAN)**  
MEMBER (JUDICIAL)

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