

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**  
**(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**  
**(Through Physical Hearing / VC Mode (Hybrid))**

**I.A. (Dis.) 3/2024, I.A. 831/2023 & I.A. 515/2023**  
in

**C.P. (IB) No.168/BB/2020**

**Order under Section 7 of the Insolvency & Bankruptcy Code, 2016  
read with Rule 4 of the Insolvency & Bankruptcy Board of India  
(Application to Adjudicating Authority) Rules, 2016**

**In the decided matter of:**

**Union Bank of India (Formerly Corporation Bank)**

....Financial Creditor/Petitioner

**Versus**

**Avvas Infotech Private Limited**

....Corporate Debtor/ Respondents

**I.A. (Dis.) 3/2024**

in

**C.P. (IB) No.168/BB/2020**

**Under Section 54 (1) read with Section 60 (5) of the Insolvency and  
Bankruptcy Code, 2016 read with Rule 11 of the National Company  
Law Tribunal Rules, 2016 and Regulation 14 of the Insolvency and  
Bankruptcy Board of India (Liquidation Process) Regulation, 2016**

**In the matter of:**

**Shri Balady Shekar Shetty,**  
Resolution Professional of  
Avvas Infotech Private Limited,  
E-98, 7A Cross, Manyata Residency  
Nagavara, Bengaluru -560045

...Applicant/Resolution Professional

**With**

**Present:**

For the Applicant : Shri Saji.P.John  
Resolution Professional: Shri Balady Shekar Shetty

**With**

**I.A. No. 831/2023**

in

**C.P. (IB) No.168/BB/2020**

**U/s 28(1) (j) and 60 (5) of the Insolvency and Bankruptcy Code,  
2016 and Section 149(1) of the Companies Act, 2013 read with the  
Rule 11 and 32 of National Company Law Tribunal Rules, 2016**



**In the matter of:**

**Shri Balady Shekar Shetty,**  
Resolution Professional of  
Avvas Infotech Private Limited,  
E-98, 7A Cross, Manyata Residency  
Nagavara, Bengaluru -560045

... Applicant/Resolution Professional

**Versus**

**Mr Venkata Sivaram Avva**  
DIN:00102009,  
D No: 23-35-39,AS Rao Street,  
Lakshmi Nagar,  
Satyanarayanapuram,  
Vijayawada-520011

... Respondent

**Present:**

For the Applicant : Shri Saji.P.John  
Resolution Professional: Shri Balady Shekar Shetty  
For the Respondent: None

**With**

**IA No. 515/2023** in  
C.P. (IB) No. 168/BB/2020 U/s. 60(5) of the  
Insolvency and Bankruptcy Code, 2016, read with the  
Rule 11 of National Company Law Tribunal Rules, 2016

**In the matter of:**

**Pridhvi Asset Reconstruction & Securitization Company Limited**  
Raja Praasadamu, 4th Floor,  
Wing No.1, Plot No. 6, 6A, 6B,  
Masjid Banda Road,  
Kondapur Hyderabad — 500084

...Applicant

**Versus**

**Balady Shekar Shetty**  
Resolution Professional of the Corporate Debtor  
E-98, 7A Cross,Manyata Residency,  
Nagavara, Bangalore—560045

...Respondent/Resolution Professional

**Order Delivered on: 10/12/2024**

**Coram:** 1. Hon'ble Shri K. Biswal, Member (Judicial)  
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)



**Parties/Counsels Present:**

For the Applicant: Ms. Amrita Jain

For the Respondent: Shri Saji P. John

**ORDER**

**Per: Shri K. Biswal, Member (Judicial)**

**I.A. (Dis.) 3/2024**

1. The present Application has been filed on 11.07.2024 by **Shri Balady Shekar Shetty, the Resolution Professional of Avvas Infotech Private Limited** (hereinafter referred as the '**Applicant**') under Section 54 (1) read with Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 ("Code/IBC") r/w Rule 11 of the National Company Law Tribunal, 2016 and Regulation 14 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016, *inter-alia* seeking for the following reliefs:
  - (a) Direct the payment of Rs.43,78,324/- being the share of CIRP cost by M/s. Pridhvi Asset Reconstruction and Securitisation Company Limited ("PARAS") to the account of Resolution Professional for settling the unpaid CIRP expenditure;
  - (b) To direct the respective Charge holders to bear the unpaid CIRP cost till the dissolution process of the Corporate Debtor is completed, in proportion to their admitted claim i.e. 75.14% by M/s. Pridhvi Assets Reconstruction and Securitization Company Limited (PARAS) and 24.86% by Union Bank of India (formerly Corporation Bank);
  - (c) To assign the landed property of 3.56 acres situated at RS No.18/1, nearest D.No.49-4-15, Gundalala village, Vijayawada which is mortgaged to Union Bank of India (formerly Corporation Bank), for which the Creditor has already got the permission from Hon'ble High Court of Telangana vide its order dated 12.03.2019 for selling the property subject to confirmation of sale by them and the plant and machinery which have already been hypothecated to Union Bank of India;
  - (d) To assign the Land and Building situated at D.No.23-6-1, Kommuvari Street, Satyanarayanapuram, Vijayawada in an area of 650 sq. yards to M/s. Pridhvi Asset Reconstruction and



Securitization Company Limited for which the creditor has already got Recovery Certificate issued by the Hon'ble Debt Recovery Tribunal on 29.11.2017;

- (e) To order for dissolution of Corporate Debtor M/s. Avvas Infotech Private Limited (under CIRP) under Section 54 (1) read with Section 60 (5) of the Code, 2016, Rule 11 of the NCLT Rules, 2016 and Regulation 14 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016 and other applicable provisions of IBC, 2016, without going through liquidation process, since the Corporate Debtor is a) no more a going concern b) having no employees and c) having shutdown the operation since April 2021.

2. Brief facts of the instant Application which are relevant to the issue in question are as follows:

- a) This Adjudicating Authority, vide, its order, dated 06.04.2021 in C.P. (IB).No.168/BB/2020 initiated Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor by appointing Interim Resolution Professional and imposing moratorium, etc. The Committee of Creditors ("CoC") of the Corporate Debtor in its 1<sup>st</sup> Meeting held on 03.05.2021, decided to continue the Interim Resolution Professional as the Resolution Professional ("RP) of the Corporate Debtor.
- b) Pursuant to the said order dated 06.04.2021 admitting the Corporate Debtor into CIRP, the RP published 1st Form-G inviting Expression of Interest on 31.07.2021. Since no Resolution Plan was received, RP published fresh Form-G with the approval of CoC on 27.10.2021. In response to Form-G published on 29.10.2021 only one Expression of Interest was received from Mr. AVS Sarma, MD of the suspended Board of Corporate Debtor holding MSME registration.
- c) The Resolution Plan submitted by Mr. AVS Sarma was placed before the 7<sup>th</sup> COC held on 13.01.2022 which approved the same with 75.14% voting share. The RP submitted the CoC approved Resolution Plan before this Tribunal on 27.01.2022 vide I.A No.42 of 2022 in terms of Section 30 (6) of IBC, 2016. The Adjudicating Authority passed an order on 25.05.2023 rejecting the Resolution Plan as the said plan was



uncertain & conditional under Section 31 (2) of IBC, 2016 and disposed off the I.A No.42 of 2022 accordingly. The Applicant submits that while rejecting the Resolution Plan submitted by the Successful Resolution Applicant in terms of Section 33(1) (b) (i), there should have been an order for liquidation of the Corporate Debtor. However, there was no order for initiating the liquidation process of the Corporate Debtor by this Tribunal.

- d) It is stated that as there was no order to initiate the liquidation process of the Corporate Debtor, the RP placed the subject matter before the 10<sup>th</sup> CoC meeting held on 05.07.2023 to decide on the further course of action including recommendation for initiation of liquidation process or for dissolution of Corporate Debtor without going through the liquidation process. The CoC, after due deliberation, passed resolution with 75.14% voting share to propose the dissolution of the Corporate Debtor without going through the liquidation process. The Corporate Debtor was not carrying on any business since 2021.
- e) The Corporate Debtor has only two Financial Creditors namely, (1) M/s. Pridhvi Asset Reconstruction & Securitisation Company Limited; and (2) Union Bank of India. The land and building of the Corporate Debtor located at Vijayawada is charged with Pridhvi Asset Reconstruction and Securitisation Company Limited and Plant and Machinery of Corporate Debtor in Hyderabad are charged with Union Bank of India. All the assets of the Corporate Debtor including the assets given a collateral security by a group company are attached by the State Government of Andhra Pradesh and by Enforcement Department. Consequently, sale of the properties cannot take place without the clearance from the appropriate judicial authorities. The assets are in the nature of 'not readily realisable assets' under Regulation 37 (A) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016. As such it is not possible to estimate the time required for getting the judicial approvals for sale of the said properties.
- f) M/s. Tourism and Travel Media Entertainment Private Limited, a group company of the Corporate Debtor had availed loan from Dena Bank by giving the property of CD at Vijayawada as security. The said



loan was assigned to M/s. Pridhvi Asset Reconstruction and Securitisation Company Limited ("PARAS") by Dena Bank. The land and building of the Corporate Debtor is charged (but not registered with RoC under Section 77 of Companies Act, 2013) to PARAS since mortgage for a loan sanctioned for a group company (M/s. Tourism and Travel Media Entertainment Private Limited). Even if Liquidation is allowed, the Liquidator cannot sell the said property as the same has been attached by Government of Andhra Pradesh and Enforcement Directorate and sale cannot take place without clearance from necessary authorities. In this regard M/s. PARAS have already got the recovery certificate from the Debt Recovery Tribunal (DRT) vide order dated 29.11.2017. Therefore it may be prudent to assign the said property to PARAS to enable them to take appropriate action for selling the Property.

- g) The Plant and Machinery of the Corporate Debtor which has been charged to Union Bank of India for a loan sanction to the Corporate Debtor has also been attached by the Government of Andhra Pradesh and Enforcement Directorate. Union Bank of India has already taken the approval from the Hon'ble High Court of Telangana for the sale of the said property. Further the Union Bank of India has already initiated necessary steps for auctioning the said property. It is also submitted that the Corporate Debtor is not carrying on any operations since 2021, all the Assets of Corporate Debtor are already charged with the Financial Creditors and there are no other assets with the Corporate Debtor. Since there are no assets in the Corporate Debtor, going into liquidation will be futile exercise and it will be an unnecessary waste of time and money which will not serve benefit to any of the Creditors. The CoC after due deliberation, passed resolutions with 75.14% voting share to propose the dissolution of the corporate Debtor without going through the liquidation process.
- h) It is stated that the RP has took necessary steps to dissolve the Corporate Debtor without going through liquidation. The Bank account of the Corporate Debtor was closed on 20.06.2024 and account closure letter is annexed as Annexure-F to the Application. The Applicant had



prepared Compliance Certificate in Form-H which was submitted along with I.A No.42 of 2022 filed for the approval of the Resolution Plan.

- i) The 10<sup>th</sup> CoC meeting dated 05.07.2023 has approved the RP to file an application for approval from Adjudicating Authority for dissolution of Corporate Debtor without liquidation by assigning the assets of the Corporate Debtor to the respective Charge holders/Financial Creditors.
3. Heard the Learned Counsel for the Applicant and have carefully perused the pleadings.
  4. Pursuant to the order dated 25.05.2023 in I.A No.42 of 2022 of this Tribunal rejecting the Resolution Plan of the Corporate Debtor, the 10<sup>th</sup> CoC meeting was held on 05.07.2023 to decide on the further course of action including recommendation for initiation of liquidation process under section 33 of the code r/w the Regulation 14(b) of Insolvency and Bankruptcy Board of India (Liquidation process) Regulations 2016 or for dissolution of Corporate Debtor without going through the liquidation process.
  5. As per the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, ("Liquidation Regulations") vide Regulation No.14, it is prescribed as under: -

*"14. Any time after the preparation of Preliminary Report, if it appears to the liquidator that -*

- a. The realizable properties of the corporate debtor are insufficient to cover the cost of liquidation process; and*
- b. The affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution."*

6. Section 54 of the Code, reads as under:-

*"54.(1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor,*



(2) The Adjudicating Authority shall on application filed by the liquidator under subsection (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered

7. Accordingly, the CoC, in the 10<sup>th</sup> meeting held on 05.07.2023. after due deliberation, passed resolution with 75.14% voting share to propose the dissolution of the Corporate Debtor without going through the Liquidation Process which is tabled below:-

**“RESOLVED THAT** the approval of the CoC be and is hereby accorded to dissolve the Corporate Debtor M/s Avvas Infotech Pvt. Ltd., without going through Liquidation Process”

**“RESOLVED FURTHER THAT,** the Resolution Professional be and is hereby authorised to file necessary application before Hon. NCLT Bengaluru Bench to consider the decision of the CoC for dissolving the company, as a special case under the present circumstances, wherein even if the Company is ordered for liquidation the Liquidator will not be able to sell the properties because of attachments made by the State Government of Andhra Pradesh and the Enforcement Dept. without the clearance from the appropriate judicial authorities consequently making it difficult to estimate the time required for getting the judicial approvals for selling the properties of the CD”

**“RESOLVED FURTHER THAT** the landed property of 3.56 acres situated at RS No. 18/1, nearest D No 49-4-15, Gunadala Village, Vijayawada which is mortgaged to Union Bank of India (formerly Corporation Bank), for which the creditor has already got the permission from Hon. High Court of Telangana vide its order dated 12<sup>th</sup> March, 2019 for selling the property subject to confirmation of sale by them and the plant and machinery which have already been hypothecated to Union Bank of India, be assigned to Union Bank of India”

**“RESOLVED FURTHER THAT** the Land & Building situated at D.No 23-6-1, Kommuvari Street, Satyanarayanapuram, Vijayawada in an area of 650 Sa. Yards, for which the creditor has already got Recovery Certificate issued by Hon Debt Recovery Tribunal on 29<sup>th</sup> November, 2017, be assigned to M/s PARAS”

**“RESOLVED FURTHER THAT** unfunded CIRP expenditure of Rs. 28,75,458/- be borne by the financial creditors in the ratio of their admitted



claims i.e. Rs.7,14,839/- by Union Bank of India (24.86%) and Rs. 21,60,619/- by M/s PARAS (75.14%)”

**“RESOLVED FURTHER THAT** Union Bank of India (formerly Corporation Bank) be refunded an amount of Rs.21,60,619/- being the excess amount already funded by them towards CIRP expenditure”

8. It is submitted by the Applicant, that the Corporate Debtor has no Employees, it is no more a going concern since April, 2021, and also no asset is available for liquidating the Corporate Debtor as the assets of the Corporate Debtor are Not Readily Realizable Assets under Regulation 38 of Insolvency and Bankruptcy Board of India (Liquidation) Process Regulations, 2016 and therefore no purpose shall be served by admitting the Corporate Debtor into Liquidation.
9. Further, from a perusal of the details narrated supra, it appears that the Liquidator has complied with all the conditions and procedural requirements, as specified under Section 54 of the Insolvency and Bankruptcy Code, 2016 and Regulations made thereunder.
10. Further also the Applicant has made the following prayers apart from praying for Dissolution of Corporate Debtor without undergoing Liquidation which is reproduced below:-
  - (A.) Direct payment of Rs.43,78,324/- being the share of CIRP cost by M/s Pridhvi Asset Reconstruction and Securitisation Company Limited (PARAS) -to the account of Resolution Professional, for settling the unpaid CIRP expenditure.
  - (B.) Pass an order directing the respective Charge holders to bear the unpaid CIRP cost till the dissolution process of the Corporate Debtor is completed, in proportion to their admitted claims i.e. 75.14% by M/s Pridhvi Assets Reconstruction & Securitization Company Ltd (PARAS) and 24.86% by Union Bank of India (formerly Corporation Bank).
  - (C.) Pass an appropriate order for assigning the landed property of 3.56 acres situated at RS No.18/1, nearest D.No 49-4-15, Gunadala Village, Vijayawada which is mortgaged to Union Bank of India (formerly Corporation Bank) for which the creditor has already got the permission from Hon. High Court of Telangana vide its order



dated 12<sup>th</sup> March, 2019 for selling the property subject to confirmation of sale by them and the plant and machinery which have already been hypothecated to Union Bank of India.

(D.) Pass an appropriate order for assigning the Land & Building situated at D.No 23-6-1, Kommuvuri Street, Satyanarayanapuram, Vijayawada in an area of 650 Sq. yards to M/s Pridhvi Assets Reconstruction and Securitization Company Ltd for which the creditor has already got Recovery Certificate issued by Hon. Debt Recovery Tribunal on 29 November, 2017.

11. The said prayers have been approved by the members of the CoC with 75.14% in the 10<sup>th</sup> Meeting of CoC held on 05.07.2023 and therefore deserves to be allowed.

12. Further Regulation 38 (1) of the Liquidation Regulations dealing with distribution of unsold assets states that:-

*38 (1) - The liquidator may, with the permission of the Adjudicating Authority, distribute amongst the stakeholders, an asset that could not be sold, assigned or transferred due to its peculiar nature or other special circumstances*

Therefore in view of the aforesaid Regulation, the Adjudicating Authority can assign the unsold assets of the Corporate Debtor to the members of the Stakeholders Consultation Committee of the Corporate Debtor

13. Accordingly, in view of this factual matrix, we are of considered view that this is a fit case for dissolution of the Corporate Debtor and the said **I.A. No.03 (Dis) /2024** seeking dissolution of the Corporate Applicant deserves to be allowed, as prayed.

14. In the result, in exercise of the powers conferred under Section 54 of the Code, the Adjudicating Authority is hereby disposing of the instant Application bearing **I.A.No.03 (Dis) /2024 and C.P.(IB)No.168/BB/2020** with the following directions:

(1) The Corporate Debtor, namely, **M/s. Avvas Infotech Private Limited** is **dissolved** with immediate effect;



- (2) The Registry is directed to forward a copy of this Order to the Registrar of Companies, Karnataka, Bengaluru within a period of two weeks from the date of receipt of this order for further necessary action as prescribed under Law;
- (3) The Ld. Liquidator is directed to forward copies of this Order to all other Statutory Authorities connected with the affairs of the Company, for further necessary action as prescribed under Law;
- (4) M/s Pridhvi Asset Reconstruction and Securitisation Company Limited is directed to pay Rs. 43,78,324/- being their share of CIRP cost as approved by the CoC to the account of Resolution Professional, for settling the unpaid CIRP expenditure;
- (5) The Charge holders being Pridhvi Assets Reconstruction & Securitization Company Ltd and Union Bank of India to bear the unpaid CIRP cost till the dissolution process of the Corporate Debtor is completed, in proportion to their admitted claims i.e. 75.14% by M/s Pridhvi Assets Reconstruction & Securitization Company Ltd (PARAS) and 24.86% by Union Bank of India (formerly Corporation Bank). as approved by the CoC;
- (6) The landed property of 3.56 acres situated at RS No. 18/1, nearest D No 49-4-15, Gunadala Village, Vijayawada which is mortgaged to Union Bank of India is assigned to Union Bank of India in accordance with Regulation 38 (1) of Liquidation Process Regulations;
- (7) The Land & Building situated at D. No 23-6-1, Kommuvari Street, Satyanarayanapuram, Vijayawada in an area of 650 Sq. yards is assigned to Pridhvi Assets Reconstruction & Securitization Company Limited in accordance with Regulation 38 (1) of Liquidation Process Regulations;

15. Accordingly, as per above directions, the instant **I.A. No.03 (Dis) /2024** is **allowed** and consequently the Company Petition bearing **C.P. (IB)No.168/BB/2020** also stands **disposed of**.



**I.A. No. 831/2023**

1. The present Application is filed on 13.11.2023 by **Shri Balady Shekar Shetty, the Resolution Professional of Avvas Infotech Private Limited** (hereinafter referred as the '**Applicant**') under Section 28(1) (j) read with Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 ("Code") and Section 149 (1) of the Companies Act, 2013 read with Rule 11 and Rule 32 of the National Company Law Tribunal Rules, 2016, *inter alia*, seeking for following reliefs:

- (a) To declare the resignation of Mr Venkata Sivaram Avva, ("Respondent") and Form DIR-11 filed by the Respondent during CIRP period as null, void and invalid under section 149(1) of Companies Act, 2013 read with Section 28(1) (g) of the Code exercising the powers under Section 60(5) of the Code, read with Rule-32 and Rule-11 of National Company Law Tribunal Rules, 2016;
- (b) To condone the delay in approaching the Hon'ble NCLT praying for annulling the resignation of Mr Venkata Sivaram Avva as Director of the Corporate Debtor M/s Avvas Infotech Private Limited for a period of 171 days commencing from 26.05.2023 to 12.11.2023;
- (c) To pass such any other order as it may deem fit in the opinion of Hon'ble NCLT Bengaluru Bench.

2. Arguments in this case were heard and order was reserved. However, it is noted that I.A. (Dis.)No.3/2024 filed by the Applicant seeking dissolution of the Corporate Debtor without undergoing Liquidation has been allowed today, in view of the order passed in I.A. (Dis.)No.3/2024, the application bearing **I.A No. 831/2023** is **disposed of as infructuous.**

**IA No.515/2023**

1. This application has been filed by Pridhvi Asset Reconstruction & Securitization Company Limited (hereinafter called as Applicant) under Section 60 (5) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "Code") r/w Rule 11 of the NCLT Rules, 2016 seeking to set-aside the decision of the Liquidator dated 28.09.2021 of



classifying the claim of the applicant as an unsecured Creditor and inter-alia praying to this Hon'ble Tribunal for following reliefs :

- a) To declare the decision of the Resolution Professional of the Corporate Debtor for recognizing the Applicant as an Unsecured Financial Creditor as null and void;
- b) To direct the Resolution Professional of the Corporate Debtor to re-classify the Applicant as a Secured Financial Creditor;
- c) Pass any other Order as this Hon'ble Tribunal deems fit in the circumstances of the case in the interest of justice and equity.

2. Arguments in this case were heard and order was reserved. However, it is noted that I.A. (Dis.)No.3/2024 filed by the Resolution Professional of the Corporate Debtor seeking dissolution of the Corporate Debtor without undergoing Liquidation has been allowed today, in view of the order passed in I.A. (Dis.)No.3/2024, the application bearing **I.A No. 515/2023** is **disposed of as infructuous.**

  
(MANOJ KUMAR DUBEY)  
MEMBER (TECHNICAL)

  
(K.BISWAL)  
MEMBER (JUDICIAL)