IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI

IA /IBC (LIQ) / 10 (CHE) / 2024

In

CP (IBC) / 140 (CHE) / 2022

(Under Section 33(1) r/w Section 34 of Insolvency & Bankruptcy Code, 2016 along with IBBI (Liquidation Process), 2016)

In the matter of ***M/s. Fossil Logistics Private Limited***

MR. RADHAKRISHNAN DHARMARAJAN
Resolution Professional of
Fossil Logistics Private Limited
No.31, Third Floor, Krishna "59", 1st Avenue,
100 feet Road, Ashok Nagar, Chennai – 600 083.

*… **Applicant/ Resolution Professional***

Order Pronounced on ***12.11.2025***

<u>CORAM</u>

Shri JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
Shri RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

<u>Present:</u>

For Resolution Professional: T. Ravichandran and Elavarasi.D, Advocates

<u>ORDER</u>

(Heard through hybrid mode)

The Present application has been filed under Section 33 of the Insolvency & Bankruptcy code, 2016 (herein after termed as "the Code") by **Mr. Radhakrishnan Dharmarajan**, RP of **M/s. Fossil Logistics Private Limited,** i.e. the Corporate Debtor (hereinafter referred as "CD") seeking following reliefs hereby:

"6. Relief(s) Sought:

It is therefore prayed that this Hon'ble Tribunal may be pleased to pass

a) an order directing that the Corporate Debtor Fossil Logistics Private Limited be liquidated as laid down under the Code;

b) and pass such other orders which are deemed fit and necessary in the nature and circumstances of the case and thus render justice."

2. The Corporate Insolvency Resolution Process ("hereinafter referred as CIRP") of the Corporate Debtor was initiated vide order dated 15.06.2023 passed by this Tribunal in CP (IBC) / 140 (CHE) / 2022, upon the petition filed by a Financial Creditor under section 7 of IBC. The Applicant, Mr. Radhakrishnan Dharmarajan, having Registration No. IBBI/IPA-001/IP-P00508/2017-2018/10909 was appointed as the Interim Resolution Professional vide order dated 15.06.2023.

3. It is submitted that public announcements were made on 17.06.2023 in Business Standard (English) and Makkal Kural (Tamil) and invitations for submission of claims were issued and last date for submission of claims was fixed on 01.07.2023. The Applicant received claims from various creditors of the CD and collated the claims and constituted the CoC on 18.07.2023 and the 1st meeting of CoC was held on 25.07.2023 and the same was filed before this Tribunal on 15.09.2023. The Applicant was later

confirmed as the Resolution Professional by the Committee of Creditors (CoC) on 02.08.2023.

4. It is further submitted that an Expression of Interest (EOI) was published on 20.09.2023 in Business Standard (English) and Makkal Kural (Tamil) newspapers, inviting resolution plans and later extended by republishing Form G on 17.10.2023 and the last date for submitting the EOI was fixed as 31.10.2023.

5. It is submitted that the Applicant received resolution plans from 2 Prospective Resolution Applicants Mr. Mohan Bhumireddy and Real Value Infotech Projects Private Limited. The members of CoC keeping in mind the maximisation of value of assets of the corporate debtor advised the PRA 's to submit a revised resolution plan.

6. However, for both plans, over 75% of the CoC members voted against and therefore, both plans were ultimately rejected by the CoC members through e-voting concluded on 27.05.2024.

7. The Applicant further submitted that the CIRP period, inclusive of extensions granted by this Hon'ble Tribunal, had expired on 12.05.2024 and no viable resolution plan was approved within the statutory period.

8. It is also submitted that the Applicant sought extensions of the CIRP period in accordance with the provisions of the Code. This Hon'ble

Tribunal in IA(IBC)/2351/(CHE)2024 vide order dated 21.12.2023 allowed extension of 90 days and accordingly the timeline for completion of CIRP process was extended till 12.03.2024 (270th day). Later, extension of another 60 days was sought before this Tribunal in IA(IBC)/721/(CHE)2024 and the said IA was allowed vide order dated 21.03.2024 and finally, IA(IBC)/1336/(CHE)2024 was filed before this Hon'ble Tribunal for extension from 12.05.2024 to 12.06.2024 and the said was allowed on 09.05.2024.

9. It is also submitted that despite multiple opportunities, repeated extensions, and settlement discussions, no viable resolution plan was received or approved. The maximum period permitted under Section 12 of the Code for completion of the CIRP, inclusive of all permissible exclusions and extensions expired.

10. It is submitted that later in the 11th meeting of the CoC held on 25.04.2024, the CoC, with 100% voting share, resolved to liquidate the Corporate Debtor under Section 33(1)(a) of the Code, noting that the last settlement proposal failed due to non-payment within the agreed period and that no settlement is presently in place between the creditors and the suspended directors.

11. Heard the Ld. Counsel appeared on behalf of the applicant and perused the records.

12. From the Compliance certificate (Form H) attached with the application the dates and events subsequent to initiation of CIRP of the CD is as follows,

S. No	***Date***	***Events***
1.	15.06.2023	Commencement of CIRP
2.	15.06.2023	Mr. Radhakrishnan Dharmarajan, appointed as IRP
3.	17.06.2023	Publication of FORM - A in Business Standard (English) and Makkal Kural (Tamil).
4.	18.07.2023	Constitution of Committee of Creditors (CoC)
5.	25.07.2023	Date of first meeting of Committee of Creditors
6.	02.08.2023	Mr. Krishnaswamy Vasudevan, appointed as RP
7.	03.08.2023	Date of appointment of registered valuers
8.	20.09.2023	Date of issue of invitation for EoI
9.	14.11.2023	Date of Final List of Eligible Prospective Resolution Applicants
10.	09.11.2023	Date of Invitation of Resolution Plan
11.	14.01.2024	Last Date of Submission of Resolution Plan
12.	12.12.2023	Date of expiry of 180 days of CIRP
13.	21.12.2023	Date of Order extending the period of CIRP
14.	12.06.2024	Date of Expiry of Extended Period of CIRP

13. It is seen that the Applicant/ RP submitted FORM-H dated 02.06.2024 as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The same is placed at Page 49-54 of the application as Annexure A8. As observed from Form-H, there is no PUFE applications pending in respect of the CD.

14. It is noted that the factual matrix of the case clearly demonstrates that the CIRP has run its course without culmination in a viable Resolution Plan. Despite issuance of Form-G and lapse of statutory timelines, no Resolution Applicant has come forward. Thus, the CoC directed the Resolution professional to file application for Liquidation of the Corporate Debtor. In view of the above facts, this Tribunal finds it appropriate to initiate liquidation of the Corporate Debtor.

15. Further, after verifying the disciplinary status from the IBBI portal, we found that the said proposed ***Mr. Radhakrishnan Dharmarajan,*** did not have any valid AFA details.

16. Therefore, we appoint ***Mr. Radhakrishnan Dharmarajan,*** having ***Reg. No. IBBI/IPA-001/IP-P00508/2017-2018/10909,*** email id: dharma@rdhandco.com , having valid **AFA upto 31-12-2025** as the Liquidator under Section 34(1) of the Code for the Corporate Debtor.

17. From the above facts and circumstances, considering the decision taken by the CoC of the Corporate Debtor, this Adjudicating Authority deems it fit to order Liquidation of the Corporate Debtor. Accordingly, we order ***Liquidation*** of the Corporate Debtor i.e. ***M/s. Fossil Logistics Private Limited*** by appointing the above ***Mr. Radhakrishnan Dharmarajan*** as the Liquidator to carry out the liquidation process subject to the following terms/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 up to 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 like transactions including fraudulent preferences and file a suitable application before this Adjudicating Authority.
d. The Registry is directed to communicate this order to the Registrar of Companies, Chennai and 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 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 individual 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 reports 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 cooperation in relation to the Liquidation process of the Corporate Debtor.

18. Accordingly, with the above directions, ***IA(IBC)(LIQ)/ 10(CHE)/ 2024 in CP(IB)/ 140(CHE)/ 2022*** stands ***allowed and disposed of***.

-Sd/- | -Sd/-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)