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

IA/333/CHE/2021 in CP/1384/IB/2018

*(Filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 r/w
Regulation 37A & 44 of IBBI (Liquidation Process) Regulations, 2016 and
Rule 11 of NCLT Rules, 2016*

*In the matter of **M/s. Maruthi Food Processing and Agri Products
Export (India) Private Limited***

Ramela Rangasamy,
Liquidator M/s. Maruthi Food Processing And
Agri Products Export (India) Private Limited
"Raji, 3B1, 3rd Floor, Gaiety Palace
No.1L, Blackers Road,
Next Building to Casino Theatre
Mount Road, Chennai- 600 002

... Applicant

Order Pronounced on 1st November 2021

CORAM:

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

For Applicant : S. Sathiyarayanan, Advocate

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

The IA/333/2021 has been filed by the Applicant under Section 54 of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 37A & 44 of IBBI (Liquidation Process) Regulations, 2016 and Rule 11 of NCLT Rules, 2016 seeking relief as follows;

- a. Dissolving the Corporate Debtor i.e. Maruthi Food Processing and Agri Products Export (India) Private Limited under Section 54(2) of the IBC;

- b. Such other orders or further orders which this Hon'ble Tribunal may deem fit and proper in the circumstance of this case and render justice.

2. It is averred in the Application that this Tribunal vide order dated 21.06.2019 passed in CP/1384IB/2018 had ordered commencement of CIRP in respect of the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP) and the Public Announcement was made on 27.06.2019.

3. It was submitted by the Learned Counsel for the Applicant that the Applicant received a claim from the Operational Creditor alone initially and the CoC was constituted with the sole Operational Creditor and the 1st CoC meeting was held on 25.07.2019 with the sole Operational Creditor as its member. The sole Operational Creditor did not make any payment towards the IRP remuneration and also towards CIRP costs. After repeated follow up by the IRP, the Operational Creditor has paid a sum of Rs.15,000/- towards publication cost, however has not paid IRP fees. Thus, it was submitted that the IRP/RP was constrained to file an Application vide MA No. 888 of 2019 seeking suitable directions to the Operational Creditor and subsequently the above said application had been ordered by the NCLT Chennai dated



14.10.2019 directed the Operational Creditor to pay the remuneration of Rs.30,000/- to the Applicant. However, the Operational Creditor failed to make payment even after the said direction.

4. Subsequently, on 06.09.2019, the Applicant received the claim of M/s. Andhra Bank, Coimbatore for a sum of Rs.12,47,764.50. Consequent to the receipt of this claim from Financial Creditor, the CoC was reconstituted with the Sole Financial Creditor and notice calling for the 2ndCoC was sent on 24.09.2019 and thereafter the Reports on constitution/reconstitution of CoC of the Corporate Debtor was filed with this Hon'ble Tribunal.

5. It was submitted by the Learned Counsel for the Applicant that during the initial stages of CIRP, the Suspended directors of the Corporate Debtor were non-traceable and the books of accounts, statutory registers and other records of the Corporate Debtor were not made available to the Resolution Professional. The Applicant filed an Application under Section 19(2) of the Code vide MA/1071/2019 before this Adjudicating Authority seeking suitable directions to the suspended board of the Corporate Debtor. However, later through news published in the newspaper and subsequent enquiry, the Applicant came to understand that one of

the suspended Director, viz. Mr. Avanashi Subramaniam Kumar was arrested by the Coimbatore Police for offences u/s 406 & 420 of IPC (Vide Crime Number 289/2019). Further it was submitted that the Applicant had also approached another suspended director, Mrs. Kumar Jothi wife of Mr. Avanashi Subramaniam Kumar, to get details and the records of the Corporate Debtor but nothing turned fruitful.

6. It was further submitted by the Learned Counsel for the Applicant that the Applicant approached the statutory Auditor of the Corporate Debtor and obtained certain limited accounting records and tally backup. On verification of the said records, it came to the light that the Corporate Debtor did not have any assets other than below stated Fixed Deposit:

PARTICULARS	AMOUNT IN RS
The Maturity value of Fixed Deposits [C. No: 239420100012677] of Rs.12 Lakhs as on 04/02/2020 subject to TDS of Rs.18,809/-	14,60,122.00

7. It was further submitted by the Learned Counsel for the Applicant that as there are no other assets other than the above referred Fixed Deposit, the CoC opined that the exercise of conducting Valuation would be superfluous and would be a wasteful expenditure by doing this exercise. The CoC in its 4th meeting passed necessary resolutions to waive off the Valuation exercise.

8. It was further submitted by the Learned Counsel for the Applicant that in the 4th CoC meeting held on 06.12.2019, the CoC resolved to waive the appointment of valuer and consequently for obtaining valuation of the assets of the Corporate Debtor and to waive the publication of Invitation of Expression of Interests and further resolved to liquidate the Corporate Debtor.

9. It is averred in the Application that this Tribunal vide order dated 08.01.2020 vide MA/1436/2019 had ordered Liquidation of the Corporate Debtor and appointed the Applicant herein as the Liquidator. Pursuant thereto, as per Regulation 12 of the IBBI (Liquidation Process) Regulations 2016, the Liquidator caused Public Announcement in Form – B on 20.01.2020 and fixed the last date for submission of the claims on 07.02.2020. Further the list of Stakeholders and their claim received and admitted as per Regulation 31 of IBBI (Liquidation Process) Regulations, 2016 is as follows:

S. No	NAME OF THE FINANCIAL CREDITOR	AMOUNT CLAIMED (AMOUNT IN RS.) PRINCIPAL PLUS INTEREST)	AMOUNT ADMITTED (AMOUNT IN RS.) PRINCIPAL PLUS INTEREST)
1	Andhra Bank	12,90,031.50	12,90,031.50
2	Income Tax Corporate Ward-2, Coimbatore	2,51,730.00	2,51,730.00

10. The Operational Creditor did not file any claim in spite of the Notice, as he has failed to pay the IRP fees in spite of order of this

Adjudicating Authority and the Operational Creditor came to understand that there are no assets in the Company to get his claim.

11. It was further submitted by the Learned Counsel for the Applicant that a meeting of the Stakeholder Consultation Committee (SCC) was held on 31.07.2020, wherein the Applicant briefed the status of liquidation to the Stakeholders. The income tax officer stated that they made their claim form only with respect to AY-2015-2016. The Suspended Directors have not filed the Income Tax Return as well as not filed financials and annual return with the Ministry of Corporate Affairs. It was also noted that the Income Tax Department can hold the directors personally liable for any tax dues as per the applicable provisions of the Income Tax Act.

12. It was further submitted by the Learned Counsel for the Applicant that all the Reports required under Regulation 5 of the IBBI (Liquidation Process) Regulations, 2016 within the lines prescribed; the details of which are as follows:

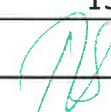
S. No	NAME OF THE REPORT	DATE OF FILING WITH THIS TRIBUNAL
1	List of stakeholders	23.03.2020
2	Preliminary Report	28.07.2020
3	Asset Memorandum	28.07.2020
4	Quarterly Progress report II for March 2020	28.07.2020
5	Quarterly Progress report III for June 2020	28.07.2020

6	Quarterly Progress report III for September 2020	14.10.2020
7	Quarterly Progress report III for December 2020	13.01.2021
8	Final Report prior to Dissolution	Along with this Application

13. It was further submitted by the Learned Counsel for the Applicant that the statement of current account maintained by the Liquidator is annexed and the receipts and payments of the Liquidator have also been audited for period 04.02.2020 till 31.03.2020 and for 01.04.2020 till 10.03.2021 are being filed with this application.

14. It is also seen that the Liquidator has annexed the detailed final report along with this Application and the Liquidator has also filed his Compliance Certificate in Form-H. A perusal of para 25 of the Affidavit shows that the amount which was lying in the bank account of the Corporate Debtor was distributed as per Sections 53 of the IBC, 2016, which is extracted hereunder.

CURRENT ACCOUNT CA 239411100002926	CREDIT	DEBIT
Interest from FD with Andhra Bank	260122.00	
Advocate – Ramya Naidu – Sec 60 Application		20000.00
Advocate – Wise & Worth Sec 19 Application		20000.00
Refund of publication cost incurred by the Applicant – Operational Creditor		15000.00
R.Rameela – IRP/RP – Reimbursement of expenses incurred during CIRP		12023.00
Auditor – Certification Fees – Receipt & Payments		5900.00
Bank Charges		93.22
T Bhagya Lakshmi – Accountant – update books of accounts		15000.00



Pilot Media – Publication Cost – Notice under Reg 31(2) of Liquidation Regulation		23520.00
Advocate – Wise & Worth Sec 33 Application, Legal notice in matter of Suspended Director and opinion in matter of Fixed Deposit		40000
Closure of CA 239411100000584 with Andhra Bank	1372.5	
Closure of FD 239420100013649 subject to TDS of Rs.3561) with Andhra Bank	1253283	
Liquidator Remuneration (180000- 150000 already paid)		30000.00
Return of Interim Finance to Andhra Bank, Financial Creditor [IRP/RP/Liquidator Remuneration Rs.150000/- and Publication Cost Form B – Rs.27300/-		177300.00
Reimbursement of Liquidator Expenses		7130
Claims distributed under Sec 53 of IBC to Financial Creditor		1113811.28
Advocate Fees for filing application for dissolution		20000.00
Auditor fees to audit and certify the Receipts and payments		10000.00
Paid to Liquidator to meet expenses on Dissolution		5000.00
TOTAL	1363241.28	1363241.28

15. It is also seen from Form-H that the Applicant / Liquidator has not filed any Application under Chapter III of IBC, 2016 which contains Sections 43, 45, 50 and also under Chapter VI which contains Section 66 of IBC, 2016. Under the said circumstances, the Applicant submitted that since there has been no activity and income and no assets left with the Corporate Debtor apart from the amount which was lying in the bank account which was also duly distributed to the stakeholders under Section 52 and 53 of IBC, 2016 after meeting the CIRP and liquidation cost and hence prayed



that the orders may be passed for dissolution of the Corporate Debtor.

16. Heard the submissions made by the Learned Counsel for the Applicant. Section 54 of the IBC, 2016 provides as follows: -

Section 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 sub-section (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.”

17. From the averments made in the Application along with the perusal of the final report and the Compliance Certificate filed in Form-H by the Applicant, it is seen that the Corporate Debtor has been completely liquidated and in the circumstances as averred and as prayed for by the Applicant that an order for dissolution is required to be passed by this Adjudicating Authority under Section 54 of the IBC, 2016.

18. Accordingly, we hereby order for the dissolution of the Corporate Debtor viz., **M/s. Maruthi Food Processing And Agri**



Products Export (India) Private Limited and the Liquidator is directed to forward a copy of this Order to the RoC concerned and also to the IBBI for its records within a period of 7 days from the date of this Order. Accordingly, IA/333/CHE/2021 stands **allowed**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

Sriram Ananth V