

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

*CA/97/2018 in TCP/363/(IB)/2017 has
been filed by Resolution Professional,
Mr. N. Sivachalam, under Section 33(2) of
the Insolvency and Bankruptcy
Code, 2016.*

In the matter of

M/s. Allwin Cargo Service.

... Operational Creditor

-VS-

M/s. Sri Padmabalaji Steels Private Limited.

... Corporate Debtor

Order delivered on 5th of March, 2018

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

Resolution Professional: Mr. N.Sivachalam.

*For Operational Creditor: Mr. E.Omprakash, Senior Counsel,
Mr. P.Elayarajkumar, Advocate
Mr. V.M.Karthik, Advocate*

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. The Application has been filed by the Resolution Professional, viz., Mr.N.Sivachalam, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (in short, '**I&B Code, 2016**') to pass an order for liquidating M/s. Sri Padmabalaji Steels Private Limited, which has been under the Corporate Insolvency Resolution

Process (CIRP) from 11.09.2017 for the period of 180 days.

2. In this case, the CIRP has been initiated by the Operational Creditor under Section 9 of the I&B Code 2016 r/w the Insolvency & Bankruptcy (Application to Adjudicating Authority Rules, 2016), by filing TCP/363/(IB)/2017 and Mr. S. Muthuraju was appointed as Interim Resolution Professional (IRP) as has been proposed by the Operational Creditor. Thereafter, the Applicant, viz., Mr. N. Sivachalam has been appointed as Resolution Professional (RP) as per the recommendation of Committee of Creditors (CoC) made in its 1st meeting held on 13.10.2017.

3. In 3rd meeting of the CoC held on 22.02.2018, a resolution has been passed to liquidate the Corporate Debtor viz., M/s. Sri Padmabalaji Steels Private Limited, as there was no resolution plan in place for the approval of the CoC. The said recommendation of the CoC is as follows: ✓

“ It is resolved with 100% voting share to request the Honourable National Company Law Tribunal to liquidate the Corporate Debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.”

4. Thus, the RP has filed the present CA/97/2018 in TCP/363/(IB)/2017 praying that this Adjudicating Authority may pass an order to liquidate the Corporate Debtor M/s. Sri Padmabalaji Steels Private Limited.

ORDER

5. In view of the facts and circumstances recorded by RP in CA/97/IB/2018 filed in TCP/363/IB/CB/2017, this Adjudicating Authority did not receive any resolution plan under Sub-Section (6) of Section 30. Therefore, in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, I proceed to pass Order as follows: -

I. I hereby order for liquidation of the Corporate Debtor viz., M/s. Sri Padmabalaji Steels Private Limited, which shall be ✓

conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

II. I hereby appoint RP viz., Mr. N. Sivachalam as Company Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;

IV. Copy of this Order shall be sent to the Registrar of Companies, RD, OL and the Registered Office of the Corporate Debtor.

V. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate

Debtor, with the prior approval of this Authority.

VI. I make it clear that para (V) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

VII. This Order 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.

VIII. 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 Company Liquidator viz., Mr. N. Sivachalam. In addition to this, the Company Liquidator shall exercise the

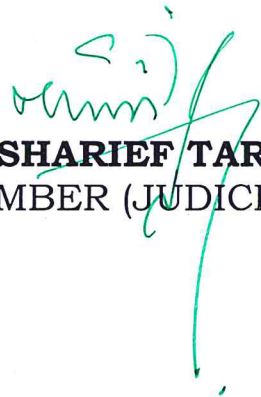
powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

IX. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

X. The Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board. Accordingly, the fees of the conduct of the liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the liquidation estate.

6. In terms of the above, CA/97/IB/2018 in TCP/363/IB/CB/2017 filed by the RP under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Sri Padmabalaji Steels Private Limited, stands disposed of.

7. A copy of this Order shall be sent to the Liquidator with immediate effect for information and compliance. CA/15/2017 filed by the Applicant also stands closed.


(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

P. ATHISTAMANI