

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

**IA /IBC (LIQ)/ 9 (CHE) / 2024**

**IN**

**CP (IB) / 166 (CHE) / 2022**

*(Under Section 33(2) & 34(5) of Insolvency & Bankruptcy Code, 2016 r/w Rules 11  
& 32 of NCLT Rules, 2016)*

**Mrs. Mummaneni Yazra Laxmi,**

Resolution Professional for M/s. Sudha Siva Traders Private Limited,

IBBI/IPA-001/IP-P00919/2017-2018/11526,

Flat No.503, Sri Aditya Land Mark, Somajiguda,

Hyderabad, Telangana, India – 500 082.

**... Applicant**

*In the matter of*

**M/s. Sujana Universal Industries Limited**

**... Operational Creditor**

Versus

**M/s. Sudha Siva Traders Private Limited**

**... Corporate Debtor**

*Order Pronounced on 12<sup>th</sup> September 2024*

**CORAM**

**SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)**

**SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

*For Applicant: Mummaneni Yazra Laxmi, Resolutional Professional*

**ORDER**

**(Heard through Hybrid model hearing)**

1. IA/IBC (LIQ)/9 CHE) in CP (IB)/166 (CHE)/2022 is an application filed under section 33 of the Insolvency & Bankruptcy code, 2016 (herein after termed as “the Code”) by Mrs. Mummaneni Yazra Laxmi, RP of M/s. Sudha Siva Traders Private Limited, the Corporate Debtor (hereinafter referred as “CD”) seeking following primary relief as follows,

*“Pass an order/s to liquidate the Corporate Debtor M/s. Sudha Siva Traders Private Limited u/s 33 of IBC, 2016 and appoint the Resolution Professional as the Liquidator of the CD”*

2. Heard the applicant and perused the documents on record.
3. M/s. Sudha Siva Traders Private Limited, the corporate debtor, was admitted to Corporate Insolvency Resolution Process, (hereinafter referred as "CIRP") vide an order dated 17.11.2023 passed by this Adjudicating Authority. Mrs. Mummaneni Yazra Laxmi, was appointed as the Interim Resolution Professional of the CD.
4. Form 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.	17.11.2023	Commencement of CIRP
2.	22.11.2023	Public announcement in Financial Express – English and Makkal Kural - Tamil
3.	13.12.2023	Constitution of Committee of Creditors (CoC)
4.	20.12.2023	1 <sup>st</sup> CoC meeting where confirmation and continuance of IRP as Resolution Professional (RP) of the CD is approved
5.	27.12.2023	Appointment of 1 <sup>st</sup> Registered Valuer Deepika Kabra.
6.	16.01.2024	2 <sup>nd</sup> CoC meeting approving issuance of Expression of Interest in Form G.
7.	17.01.2024	Publication of Form G in Financial Express and Makkal Kural
8.	18.03.2024	3 <sup>rd</sup> CoC meeting where the Constitution of CoC was revised and Commercial Taxes department was included.
9.	06.04.2024	Appointment of 2 <sup>nd</sup> Registered Valuer C.P. Sastry
10.	05.05.2024 & 09.05.2024	4 <sup>th</sup> CoC meeting which resolved recommendation of Liquidation of the CD without going through Expression of Interest (EoI) process.
11.	13.05.2024 & 14.05.2024	Conduction of Voting Process and declaration of results
12.	14.05.2024	Expiry of 180 days of CIRP
13.	15.05.2024	Date of filing Liquidation application before this Adjudicating Authority

5. It is stated that IRP constituted the CoC based on the claims she received. Subsequently the IRP was confirmed as RP. In later stage, the Commercial Taxes

Department submitted its claim and after verification RP admitted their claim and reconstituted the CoC.

6. The revised list of CoC as per the 3<sup>rd</sup> CoC meeting is extracted as follows,

S.no	Name of the Creditor	Nature of Claim	Claim Amount ( in Rs. )	% of Voting
1	Sujana Universal Industries Limited	Operational Debt	26251967	6.38
2	Commercial Tax Department	Operational Debt	385175860	93.62
			411427827	100

7. It is averred that, during the 3<sup>rd</sup> CoC meeting, the CoC members informed the RP that as there are no transactions in the CD for the Past 3 to 4 years.

8. Further it is submitted that during the 4<sup>th</sup> CoC meeting, summary of Valuation reports of the Registered Valuers is submitted to the CoC that shows the average Fair Value of Rs.15,097.50/- and average Liquidation Value of Rs.15,097.50/-. The same is extracted as follows,

Name of the Valuer	Class of asset	Fair Value in Rs	Liquidation Value in Rs
CP Sastry	Financial class of assets	15,195	15,195
Deepika Kabra	Financial class of assets	15,000	15,000
Average Values		15,097.50	15,097.50

9. It is submitted that, during the 4<sup>th</sup> CoC meeting, the CoC opined that as the Liquidation value of the CD is only Rs.15,098.50/- and any extension of CIRP period would involve unnecessary costs and therefore opted for Liquidation Process of the CD and consented for putting Liquidation Resolution for e-Voting.

10. Accordingly, the RP has put the liquidation resolution for voting of the CoC members after explaining the Regulation 39B, 39BA, 39C & 39D of CIRP Regulations. The Resolution for Liquidation of the CD is extracted as follows,

*"Resolved that pursuant to the provisions of Sec 33 (2), and Explanation provided thereunder of THE INSOLVENCY AND BANKRUPTCY CODE, 2016 Committee of Creditors Of M/s. Sudha Siva Private Limited hereby approve to Liquidate the Corporate Debtor and further resolved to continue the RP as Liquidator and further resolved that the RP shall file necessary application or IA with Hon'ble NCLT, Hyderabad to liquidate the Corporate Debtor."*

11. The Resolution has been put for voting from 13.05.2024 to 14.05.2024 through Claim Bridge Technologies, where the above Resolution received favourable voting from one of the CoC member namely M/s. Sujana Universal Industries Limited who holds only 6.38% voting rights, whereas the other CoC member, the Commercial Taxes Department who has the 93.62% has not voted. The Voting is extracted as follows,

The screenshot displays the Claim-Bridge Technologies e-voting interface. At the top, the date is Tuesday 14th of May 2024. A message certifies the E-voting event for M/s. Sudha Siva Traders Private Limited (Under CIRP) conducted on the Claim-Bridge platform from Monday 13th of May 2024 11:00:00 AM to Tuesday 14th of May 2024 07:00:00 PM. Below this, a table shows the voting results: Total Voters: 2, Total Voted: 1, and Total voting per: 100%. The Resolution Id is Q8DaAEJAnsSbc07267. Item No. 4 of Minutes is titled 'To discuss on Further CIRP expenses and to Liquidating the Corporate Debtor'. The resolution text is the same as in block 10. At the bottom, contact information is provided: Mail Us: www@claimbridge.com, Phone: +91 98915 05357, and Office Address: H-87 second floor Block H sector 63 Noida, UP.

Claim-Bridge Technologies	
Date: Tuesday 14th of May 2024	
This is to certify that E-voting event for E-VOTING FOR M/s. Sudha Siva Traders Private Limited (Under CIRP) conducted on Claim-Bridge platform from Monday 13th of May 2024 11:00:00 AM to Tuesday 14th of May 2024 07:00:00 PM conducted fairly over a secured platform.	
Total Voters:	2
Total Voted:	1
Total voting per:	100 %


**Resolution Id:- Q8DaAEJAnsSbc07267**

**Item No. 4 of Minutes**  
**To discuss on Further CIRP expenses and to Liquidating the Corporate Debtor**  
**Resolution.**

*"Resolved that pursuant to the provisions of Sec 33 (2), and Explanation provided thereunder of THE INSOLVENCY AND BANKRUPTCY CODE, 2016. Committee of Creditors OF M/s Sudha Siva Traders Private Limited hereby approve to Liquidate the Corporate Debtor and further resolved to continue the RP as Liquidator and further resolved that the RP shall file necessary application or IA with Hon'ble NCLT, Hyderabad to liquidate the Corporate Debtor."*

Mail Us: [www@claimbridge.com](mailto:www@claimbridge.com) | Phone: +91 98915 05357  
Office Address: H-87 second floor Block H sector 63 Noida, UP

#	Yes	No	Abstain
Total (%)	6.38	0	0
Count	1	0	0

DocuSigned by:  
  
*Chirag Vats*  
 Chirag vats  
 Claim Bridge Technologies

12. It is submitted that the Commercial Taxes department did not participate in voting process because they wanted to discuss the matter with higher officials and only after that they can decide on this matter.

13. It is stated as per the Liquidation Resolution, CoC has recommended the applicant RP to be appointed as the Liquidator in respect of the CD and thus applicant has sought for appointing herself as the Liquidator as per the code.

14. The relevant Provisions under Section 12 and 33 of the IBC, 2016 is extracted for the ready reference as follows,

***“12. Time-limit for completion of insolvency resolution process. -***

*(1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.*

*(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of 1[sixty-six] per cent of the voting shares.*

*(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:*

*Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once:*

*[Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate*

*insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:*

*Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.]*

### **33. Initiation of liquidation. -**

*(1) Where the Adjudicating Authority, -*

*(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*

*(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall –*

*(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*

*(ii) issue a public announcement stating that the corporate debtor is in liquidation; and*

*(iii) require such order to be sent to the authority with which the corporate debtor is registered.”*

15. The position of the law is clear and settled in respect of CIRP period and timelines in respect of CIRP. Section 12 mandates, the CIRP has to be completed within 180 days from the date of admission of the CIRP application. Further, unless there is a Resolution permitting the resolution professional to seek an extension beyond limit of 180 day period passed by the CoC with 66% voting of shares, the 180 day limit is sacrosanct. Section 33 of the Code provides when there is no resolution plan received or approved within the time period set out under Section 12, the adjudicatory authority shall pass an order of Liquidation of the CD.

16. In “*Manish Kumar V. Union of India, ([2021] 14 S.C.R. 895)*” the Supreme Court of India observed as follows,

*“Section 33, which is in Chapter III in Part II, compels announcing the death knell of the corporate debtor. That is if, before the expiry of insolvency resolution process period or the maximum period permitted for CIRP which is Under Section 12, inter alia, a resolution plan is not received or though received is rejected by the adjudicating authority, then Under Section 33, order is to be passed.*

*The curtains are wrung down on the insolvency resolution process. The corporate debtor goes into liquidation. The adjudicating authority is bound to pass an order requiring corporate debtor to be liquidated as provided in chapter III Part II. Section 33(2) contemplates that before the confirmation of the resolution plan if the committee of creditors so approved by not less than 66% of the he voting decide to liquidate the corporate debtor, the adjudicating authority is to pass the liquidation order.”*

17. In the present case, we find that the time limit of 180 days expired on 14.05.2024 and there is no application seeking extension or exclusion of the time period relating to CIRP. Further from the submission, it is observed that CoC has no intention for extending CIRP so far. There is no realizable assets in the CD, where the Fair and Liquidation Valuation comes as Rs.15,097.50/- (Rupees Fifteen thousand ninety seven and fifty paisa). There is no Resolution Plan. No EoI was received during the CIRP and same is discussed in Minutes of 3<sup>rd</sup> CoC meeting dated 18.03.2024.

18. It is observed that since the CoC found no prospects in continuing with the CIRP. Therefore the above resolution for Liquidation of the Corporate Debtor has been passed taking into consideration the interest of the Corporate Debtor and all other stakeholders concerned. Thus CoC directed the Resolution professional to file application for Liquidation of the Corporate Debtor.

19. Insolvency Process being a time bound proceeding, the timelines are to be strictly adhered. Considering the status of the CD and acts of CoC the present application deserves to be considered.

20. The Applicant/RP submitted FORM-H as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The same is placed in the typed set of papers filed with the application. The extracts of Form H is as follows,

FORM H COMPLIANCE CERTIFICATE		
(Under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)		
I, <b>Mummaneni Vazra Laxmi</b> , an insolvency professional enrolled with IIPCAI and registered with the Board with registration number IBBI/IPA-001/IP-P00919/2017-2018/11526 am the resolution professional for the corporate insolvency resolution process (CIRP) of <b>M/s SUDHA SIVA TRADERS PRIVATE LIMITED(CD)</b> .		
2. The details of the CIRP are as under:		
Sl. No.	Particulars	Description
1	Name of the CD	M/s SUDHA SIVA TRADERS PRIVATE LIMITED(CD)]
2	Date of Initiation of CIRP	17-11-2023 (Order copy made available on 21-11-2023)
3	Date of Appointment of IRP	17-11-2023 (Order copy made available on 21-11-2023)
4	Date of Publication of Public Announcement	22-11-2023
5	Date of Constitution of CoC	13-12-2023
6	Date of First Meeting of CoC	20-12-2023
7	Date of Appointment of RP	20-12-2023
8	Date of Appointment of Registered Valuers	27-12-2023
9	Date of Issue of Invitation for EoI	17-01-2024
10	Date of Final List of Eligible Prospective Resolution Applicants	NA (NONE RECEIVED)
11	Date of Invitation of Resolution Plan	NA
12	Last Date of Submission of Resolution Plan	NA
13	Date of Approval of Resolution Plan by CoC	NA
14	Date of Filing of Resolution Plan with Adjudicating Authority	NA
15	Date of Expiry of 180 days of CIRP	14-05-2024

16	Date of Order extending the period of CIRP	Nil
17	Date of Expiry of Extended Period of CIRP	NA
18	Fair Value	Rs. 15,097.50
19	Liquidation value	Rs. 15,097.50
20	Number of Meetings of CoC held	4

21. From the Minutes of the 4<sup>th</sup> CoC meeting and resolution passed thereon, it is observed that the CoC has proposed Liquidator in this matter and the connected portion of the Resolution is extracted as follows,



**Resolution:**

*"Resolved that pursuant to the provisions of Sec 33 (2), and Explanation provided thereunder of THE INSOLVENCY AND BANKRUPTCY CODE, 2016, Committee of Creditors OF M/s Sudha Siva Traders Private Limited hereby approve to Liquidate the Corporate Debtor and further resolved to continue the RP as Liquidator and further resolved that the RP shall file necessary application or IA with Hon'ble NCLT, Hyderabad to liquidate the Corporate Debtor."*

RP informed the members that as per CIRP Regulations the following has to be decided by the CoC

22. Further it is observed by the Tribunal that the Liquidation resolution has been passed quoting that NCLT, Hyderabad has the required jurisdiction in the present matter, which seems to be typo. It is necessary to highlight that the location and registered office of the CD is well within the Jurisdiction limits of this Tribunal and we have the appropriate powers to decide this matter.

23. As the CoC has recommended the applicant RP to be continued as Liquidator for Liquidation Process, we allow the same. Further it is seen that the CoC has decided to discuss the fees of the Liquidator once the Liquidation order is passed. The relevant extracts are as follows,

**D. 39D. Fee of the liquidator:**

RP informed that as per the Regulation 39D of INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016, COC need to fix the Liquidator Fee and other expenses.

Members of COC informed that they will discuss this with Liquidator after Liquidation Order is passed.

24. From the above submissions, considering the position of law and intention of the CoC, this Adjudicating Authority deems it fit to order Liquidation of the Corporate Debtor.

25. Accordingly, we order liquidation of the Corporate Debtor by appointing **Mrs. Mummaneni Yazra Laxmi** having Reg. No. **IBBI/ IPA-001/ IP-P00919/ 2017-2018/ 11526** email id: [emailtolak@gmail.com](mailto:emailtolak@gmail.com) with valid **AFA till 30.10.2024** 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.*

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.

26. With the above directions, **IA/ IBC (LIQ)/ 9(CHE)/ 2024 in CP (IB)/ 166(CHE)/ 2022** stands allowed and disposed of.

**-Sd/-**  
**VENKATARAMAN SUBRAMAIAM**  
**MEMBER (TECHNICAL)**

**-Sd/-**  
**JYOTI KUMAR TRIPATHI**  
**MEMBER (JUDICIAL)**

*Order Pronounced under Rule 151 of NCLT Rules 2016, by **Hon'ble Judicial Member, Shri Jyoti Kumar Tripathi** on behalf of the Special Bench II Comprising of **Shri Jyoti Kumar Tripathi, Member (Judicial)** and **Shri Venkataraman Subramaniam, Member (Technical)**.*

**-Sd/-**  
**Court Officer**