



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **23.10.2024** THROUGH VIDEO CONFERENCING

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**PRESENT:** HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)  
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

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**IN THE MATTER OF** : Vinay R  
Vs  
Cargowings Logistics Ltd

**MAIN PETITION NUMBER** : CP(IB)/121/CHE/2023

**(IA/MA) APPLICATION NUMBERS**

IA(LIQ)/8(CHE)/2024

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**ORDER**

Present: None for the Applicant / Liquidator.

Vide separate order pronounced in Open Court, liquidation is ordered.  
Shri. Madurai Sundaram Shankar is appointed as the Liquidator.

**Sd/-**

**(VENKATARAMAN SUBRAMANIAM)**  
MEMBER (TECHNICAL)

MG

**Sd/-**

**(SANJIV JAIN)**  
MEMBER (JUDICIAL)



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

**IA(IBC)(LIQ)/8/CHE/2024 in CP(IB)/121/CHE/2023**

*(Filed under Section 33(1)(a), 33(2) & 34(1) of the Insolvency and Bankruptcy Code,  
2016 read with Rule 11 of NCLT Rules, 2016)*

*In the matter of Cargowings Logistics Limited*

**Dr S.R. Shriram Shekar,**  
RP of Cargowings Logistics Limited,  
No 11, Prayag Apartments,  
8-15, Gandhi Nagar, First Main Road,  
Adyar, Chennai- 600 020.

*... Applicant*

***Order Pronounced on 23<sup>rd</sup> October, 2024***

**CORAM:**

**SANJIV JAIN, MEMBER (JUDICIAL)**

**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

For Applicant : B. Thilakh Narayanan, *Advocate*

**ORDER**

**(Heard Through Hybrid Mode)**

This is an application filed under Section 33(1)(a), 33(2) & 34(1) of  
the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT  
Rules, 2016 seeking reliefs as follows:

*i) Order liquidation of the Corporate Debtor, M/s Cargowings  
Logistics Limited;*



*ii). Direct the committee of creditors of the corporate debtor, M/s Cargowings Logistics Limited to pay a sum of Rs.13,45,740/- to the Applicant towards remuneration and legal expenses; and*

*iii) grant such other orders and further reliefs as the nature and circumstances as the case may require.*

2. From the averments made in the application, it is seen that the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated on 17.11.2023 and one Mr.S.R.Shriram Shekar was appointed as the Interim Resolution Professional (IRP). It is stated that, on receipt of this Tribunal's orders vide email on 21.11.2023 the Applicant visited the registered office of the CD to take control of the affairs of the Corporate Debtor and requested the suspended board of directors to hand over the records pertaining to the Corporate debtor on or before 25.11.2023.

3. It is stated that this Tribunal has ordered moratorium under Section 14 and directed the IRP to make public announcement and complete the assignment as required under law. The Applicant submits that the public announcement about initiation of the CIRP and the calling for the claims was published by the IRP on



23.11.2023 in 'Hindu Tamizh Thisai' (Tamil) & 'Business Standard' (English).

4. It is stated that pursuant to the public announcement, the applicant received claims and the same were verified and admitted as per Regulation 13 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

5. Thereafter, COC was constituted by the Applicant, based on the claims received. The report of constitution of COC was filed before this Tribunal in IA/IBC/2366/CHE/2023 and the same was taken on record by this Tribunal.

6. It is stated that, the Applicant received claims belatedly and the COC was reconstituted accordingly. The snapshot of the reconstituted COC along with their voting percentage is extracted hereunder:-



S. No.	Name of Creditor	Amount Admitted (inRs.)	Nature of Claim	Voting Share
1.	Shriram Finance Limited	76,07,80,009	SFC	45.05%
2.	Sundaram Finance Limited	51,13,85,602	SFC	30.28%
3.	Hinduja Leyland Finance Limited	28,11,95,349	SFC	16.65%
4.	Tata Motors Finance Limited	4,72,58,093	SFC	2.80%
5.	Kotak Mahindra Bank Limited	13,64,046	SFC	0.08%
6.	Mahindra and Mahindra Financial Services Ltd.	4,57,03,256	UFC	2.71%
7.	Easyaccess Financial Services	2,02,60,791	UFC	1.20%
8.	Equitas Small Finance Bank	1,25,73,398	UFC	0.75%
9.	TATA Capital Limited	81,44,768	UFC	0.48%
	<b>Total</b>	<b>1,68,86,65,312</b>		<b>100%</b>

7. It is stated that, in the 1<sup>st</sup> COC meeting held on 26.12.2023, the Applicant was confirmed as the Resolution Professional of the Corporate Debtor, and the CIRP expenses were discussed in the CoC meeting. This Tribunal confirmed the appointment of the Applicant as the RP of the Corporate Debtor in IA/IBC/157/CHE/2024. The minutes of the 1<sup>st</sup> COC meeting is placed as Annexure 3 of the Application typeset.



8. It is stated that, IA/IBC/524/CHE/2024 was filed by the Applicant seeking cooperation from the suspended board of directors and to provide relevant details of the CD as sought. In the hearing conducted on 29.02.2024, one Mr. Kaushik the suspended director of the CD, appeared and undertook to provide the details sought by the Applicant within 2 weeks from the date of the order. However it is stated that, no financials have been handed over to the Applicant till the date of filing this present Application. Further IA/IBC/2388/CHE/2023 was filed by the landlord of the Registered premises of the CD seeking to hand over the possession of the premises from which the Registered office of the company was functioning.

9. It is stated that, in the 2<sup>nd</sup> COC meeting held on 26.02.2024 the Applicant appraised the members of the COC about the applications stated *Supra* and proposed to move out of the premises. The COC resolved to negotiate the rent with the landlord or move to a small economic place.



10. It is stated that, the Registered Valuers appointed by the Applicant, could not do any work as there was no information available about the tangible and intangible assets of the CD owing to the non-cooperation by the Suspended board of directors.

11. It is stated that, the resolution to approve the CIRP cost and legal expenses as per Regulation 34B of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 could not be passed as only 19.45% of the COC voted in the resolution, 45.05% deferred to discuss the said issue and remaining abstained from voting. The minutes of the 2<sup>nd</sup> COC meeting is placed as Annexure 4 to the Application typeset.

12. It is stated that, in the 3<sup>rd</sup> COC meeting held on 26.03.2024, the members of the COC with 46% were present. The COC members were appraised about the non-cooperation from the suspended directors and that the rent of the premises of the CD could not be negotiated with the landlord. The Applicant in the 3<sup>rd</sup> COC meeting, offered to resign, as without the cooperation of the COC members, resolution of the CD would not be possible. The minutes



of 3<sup>rd</sup> COC meeting is placed as Annexure 6 to the Application typeset.

13. It is stated that, in the 4<sup>th</sup> COC meeting, held on 26.04.2024, COC members with 96.46% voting attended the meeting. It was resolved to go for early liquidation of the Corporate Debtor on account of the fact that there were lack of information on the tangible assets of the CD non-cooperation from the suspended board of directors, and the commercial interest of the CoC is involved. Further, it was resolved to appoint Mr. Madurai Sundarm Sankar (IBBI/IPA-001/IP-P00770/2017-2018/11315) as the liquidator. The said resolution was passed with 96.46%. The proposed liquidator furnished FORM AA as per Section 35 of the IBC, 2016. The minutes of the 4<sup>th</sup> COC meeting along with the voting sheet is placed as Annexure 7 of the Application typeset.

14. We have heard the submissions and perused the record.

15. The applicant annexed **Form-H** and the same is placed at **Annexure 9** of the Application typeset. It is seen from the Form-H that there are no PUFEE applications pending in this matter.





16. It is seen from the records that the Committee of Creditors in the 4<sup>th</sup> COC meeting held on 26.04.2024 resolved to liquidate the Corporate Debtor with 96.46% voting share. In such circumstances, the prayer (a) seeking for liquidation stands **allowed**. As a consequence, thereof, we order for the Liquidation of the Corporate Debtor as per Section 33(2) of IBC, 2016.

17. **Mr. Madurai Sundaram Sankar** with Registration number **IBBI/IPA-001/IP-P00770/2017-2018/11315** with email [m.s.sankar@outlook.com](mailto:m.s.sankar@outlook.com) has also filed his written consent to act as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorization for Assignment (AFA) for the said person is valid up to 07.12.2024.

18. We hereby appoint **Mr. Madurai Sundaram Sankar**, with **Reg. No. IBBI/IPA-001/IP-P00770/2017-2018/11315** as the Liquidator of the Corporate Debtor, to carry out the liquidation process subject to the following terms of the 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 upto date enjoined upon her.

- 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 suitable application before this Adjudicating Authority.
- d) 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.
- e) 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.
- f) The Liquidator shall submit a 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 report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

19. The Registry is directed to communicate this order to the Registrar of Companies, concerned and to the Insolvency and Bankruptcy Board of India;

20. The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

21. In the instant application, the Applicant RP has also prayed for directing the CoC to pay Rs.13,45,740/- towards remuneration and legal expenses along with 18% GST as per Regulation 34 B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. It is stated that, the Applicant has admitted the claim for Rs. 1,68,86,65,312/- (Rupees One Hundred and Sixty-Eight Crore Eighty Six Lakhs Sixty Five Thousand Three



Hundred and Twelve Only), thus as per Schedule II of the IBBI (CIPR) Regulations, 2016, the Applicant is entitled to Rs.2 Lakh as remuneration.

**Minimum Fixed Fee.**

1. Minimum fixed fee as per the table -1 below shall be paid to the interim resolution professional or the resolution professional, as the case may be, for the period mentioned in clause 2:

**Table-1: Minimum Fixed Fee Structure**

<b>Quantum of Claims Admitted</b>	<b>Minimum Fee Per Month (Rs. lakh)</b>
(i) Less than or equal to Rs. 50 crore	1.00
(ii) More than Rs.50 crore but less than or equal to Rs.500 crore	2.00
(iii) More than Rs.500 crore but less than or equal to Rs.2,500 crore	3.00
(iv) More than Rs.2,500 crore but less than or equal to Rs.10,000 crore	4.00
(v) More than Rs.10,000 crore	5.00

22. One of the members of the COC namely Shriram Finance Limited has filed two memos before this Tribunal vide SR No.3432 & 4059 dated 08.07.2024 & 09.08.2024 respectively. In the memo, Shriram Finance Limited has pleaded that, they had objected to the remuneration amount & the CIRP costs arrived at by the RP alleging that the fees recorded in the minutes of the meeting is factually incorrect and the resolution passed in contradiction to the IBBI Regulations should be deemed void. Further, the RP resigned in the 3<sup>rd</sup> COC meeting conducted on 26.03.2024, but the fees has been calculated till filing of this liquidation application i.e.11.05.2024.



23. The calculation of the RP remuneration as averred in the Application is extracted hereunder

S.No.	Period	Amount (Rs.)
1.	17.11.2023 - 30.11.2023	1,09,740.00
2.	December, 2023	2,36,000.00
3.	January, 2024	2,36,000.00
4.	February, 2024	2,36,000.00
5.	March, 2024	2,36,000.00
6.	April, 2024	2,36,000.00
	<b>Total</b>	<b>12,89,740.00</b>

Further it is stated that, Rs. 56, 000/- remains unpaid towards legal expenses.

24. The tribunal has perused the memo filed by Shriram Finance Limited. Considering the submissions made by both the parties, this Tribunal is of the view that, the RP is not functus officio until an order of liquidation is passed by this Tribunal. It is clear from the 4<sup>th</sup> COC minutes that, the RP is the Applicant herein, and it was resolved to file the early liquidation application, through the



Applicant herein. Thus, the CoC cannot cite a reason stating that, the RP resigned in the 3<sup>rd</sup> COC meeting as the resolution was not voted upon.

25. It is seen from the orders dated 18.10.2024, that Rs.4,00,000/- has been paid by Shriram Finance Limited as ad hoc payments towards remuneration of the RP. Further, in this Tribunal's order dated 29.08.2024, the RP was directed to file a detailed status report about the progress of the CIRP which was not submitted. Considering the facts and circumstances of this case, we are of the view that prayer (b), in this Application need not be considered at this stage and is accordingly **dismissed**. The Applicant RP is at liberty to move a separate Application with regards to his remuneration and other CIRP cost if any before this Tribunal.

26. Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.



27. With the above said directions, this **IA(IBC)(LIQ)/8/CHE/2024** filed for Liquidation of the Corporate Debtor stands **disposed of**.

**-Sd-**

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**-Sd-**

**SANJIV JAIN**  
MEMBER (JUDICIAL)

*VinitaVarshini.K*