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Sl. No. 3

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

(Virtual Hearing)

**PRESENT: SHRI RAJEEV BHARDWAJ – MEMBER (JUDICIAL)
: SHRI SANJAY PURI – MEMBER (TECHNICAL)**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 06.11.2024 AT 01:00 P.M.

| TC/CP. Nos. | IBC Stage | Present stage of the case | Section/Rule | Name of Parties |
|-------------------------|-----------------------------|---------------------------|---|---|
| CP(IBC)/114/9/AMR /2022 | Admitted | Admitted | 9 of IBC | SPC FAB Pvt Ltd Vs Villmar Agro Polymers Private Limited. |
| | IA(IBC)(LIQUIDATION)/4/2024 | For Orders | U/s 33(2) of the iBC Code, 2016 | Mr.Sivarama Prasad Gudipati RP of Villmar Agro Polymers Pvt Ltd |
| | IA(IBC)/361/2024 | For Orders | U/s 12(2) and 60(5) of the IBC Code, 2016 R/w Rule 11 of NCLT Rules, 2016 | Mr.Sivarama Prasad Gudipati RP of Villmar Agro Polymers Pvt Ltd |

ORDER

IA(IBC)(Liquidation)/4/2024:

Present: Mr. G. Sivarama Prasad, Ld. Counsel for the applicant/IRP

Orders pronounced. IA(IBC)(Liquidation)/4/2024 is allowed and recorded vide separate sheets.

IA(IBC)/361/2024:

Present: Mr. G. Sivarama Prasad, Ld. Counsel for the applicant/IRP

Orders pronounced. IA(IBC)/361/2024 is allowed and recorded vide separate sheets.



Sd/-

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**SANJAY PURI
MEMBER (TECHNICAL)**

**RAJEEV BHARDWAJ
MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI

IA(IBC)(LIQ.)/4/2024
in
CP(IB)/114/9/AMR/2022

[Application under Section 33 (2) of the Insolvency and Bankruptcy Code,
2016]

In the matter of
M/S VILLMAR AGRO POLYMERS PRIVATE LIMITED

Mr. Sivarama Prasad Gudipati,
Resolution Professional of M/s. Villmar Agro Polymers Private Limited,
Reg. No: IBBI/IPA-002/IP-NO1233/2022-2023/14163,
Address: D.no: 3-28-32, Adilakshmi Nilayam,
Ground Floor, Brundavan Garden, 4th Lane,
Guntur – 522066, Andhra Pradesh.
Email ID: rp.gsivaramaprasad@gmail.com

...Applicant/Resolution Professional

Date of Order: 06.11.2024



CORAM:

SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)

SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

Parties/Counsels Appearance:

For Applicant/RP : Mr. Sivarama Prasad Gudipati, RP

ORDER
(Per: Bench)

1. This is an Application filed by Mr. Sivarama Prasad Gudipati, Resolution Professional (“RP”) of M/s. Villmar Agro Polymers Private Limited (Corporate Debtor (“CD”)), under section 33 (2) of the Insolvency and Bankruptcy Board of India, seeking:

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- a) To initiate Liquidation Process of the Corporate Debtor under section 33(2) of the Code and
- b) To Appoint Mr. Sivarama Prasad Gudipati, RP as the Liquidator of the Corporate Debtor as recommended by Committee of Creditors (“COC”).

Brief facts of the Application are as follows:

2. This Tribunal vide order dated 12.04.2023 admitted the Corporate Debtor into CIRP and appointed Mr. Sivarama Prasad Gudipati as Interim Resolution Professional (“IRP”) and in the 1st COC meeting held on 19.12.2023, CoC confirmed the Applicant as the RP. RP issued paper publication in Financial Express (English daily) and Eenadu (Telugu/vernacular daily) on 22.04.2023 for inviting claims from the creditors, with the last date for submission of claims being 02.05.2023 in Form A.

On 08.05.2023, IA(IBC)/202/2024 was filed before this Tribunal seeking directions to the CD for cooperation to the IRP and IA(IBC)/201/2024 for seeking directions to the Andhra Pradesh State Financial Corporation (“APSFC”) for handing over the factory premises to the IRP and the same were disposed of by this Tribunal vide its orders dated 20.11.2023 and 15.04.2024 respectively.

4. Pursuant to the public notice issued by the RIP, claims were received from two creditors of the CD, which are as under:

| S. No. | Name of Creditor | Amount claimed by the Creditor (Rs.) | Amount Admitted Provisionally (Rs.) | Security interest, if any, in respect of such claim as per the claim form submitted | Voting rights |
|--------|------------------|--------------------------------------|-------------------------------------|---|---------------|
| | | | | | |

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| | | | | | |
|----|--|--------------|--------------|--|------|
| 1. | Andhra Pradesh State Financial Corporation (APSFC) | 11,85,78,471 | 11,85,78,471 | Secured Financial Creditor | 100% |
| 2. | SPC Fab Private Limited | 2,00,07,278 | 1,59,35,241 | OC with an aggregate debt of more than 10% of the total debt of CD | NIL |
| | Total | 13,85,85,749 | 13,45,13,712 | | |

5. Further, IA (IBC)/426/2023 was filed before this Tribunal certifying the Constitution of CoC and the same was allowed by this Tribunal vide order dated 11.01.2024. During the 1st CoC meeting held on 19.12.2023, the sole member of CoC, holding 100% voting rights, voted in favour of the resolution for continuation of the IRP as the RP.
6. Further, it is stated that the CD failed to provide the necessary books of accounts and financial records, which were located at the factory premises seized by the APSFC, the sole FC holding 100% voting rights. During the 1st CoC meeting, IRP requested the same to the APSFC and on 04.04.2024, APSFC granted its consent and on 08.04.2024 Branch Manager of APSFC, Rajahmundry, formally handed over the factory premises to me.
7. Further, RP initiated the process of the appointment of valuers for the Plant & Machinery and Land & Buildings of the CD and the same was discussed in detail during the 2nd CoC meeting held on 03.05.2024.
8. The factory building of the CD is adjoined to three additional factory buildings (proprietary firms) of the same CD, all located within the same compound. These buildings were also seized by the APSFC on 19.07.2022. The factory building in question is one unit within a total of four buildings that share a combined compound wall and have common entry and exit points accessible through three gates.



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9. APSFC, the sole FC, has been working diligently to revive the CD along with three other proprietary firms within the same compound. The 3rd CoC meeting on 21.06.2024 determined that the best option is to revive the CD alongside these firms due to their manufacturing of interdependent products. The APSFC processed a One Time Settlement (OTS) proposal for the CD and three other proprietary firms, granting in-principle approval. This approach aims to ensure the sustainability of operations and provide employment opportunities to local people, while also protecting the interests of other units. The CoC adopted a cautious approach, focusing on the commercial viability of the entire group, and was concerned that valuing M/s. Villmar Agro Polymers Private Limited in isolation could negatively impact the revival prospects of the other three companies. As a result, the CoC proceeded with the CIRP, valuing the Plant & Machinery and Land & Buildings on 29.07.2024.



10. In the meantime, an Information Memorandum utilizing information gathered from various sources and explained in detail during the fourth CoC meeting held on 27.08.2024 and was subsequently shared with the creditors. The methodology of valuation was presented comprehensively by the Registered Valuers of Plant & Machinery and clarified the doubts raised by the CoC members.

11. Further, in the 5th CoC meeting held on 13.09.2024, the contents of the valuation reports were presented, highlighting several critical observations made by the Registered Valuer Organizations (RVOs).

- Machinery Condition:** 90% of the machinery has been idle for over two and a half years, resulting in rusting, deterioration and irreparability.
- Outdated Equipment:** The machinery, including power looms and other connected equipment installed in 2018, has become outdated. The operational costs, particularly for power consumption, are prohibitively high compared to the latest, more energy-efficient and technologically advanced equipment available in the market.

- c) **Repair Costs:** The cost to repair the rusted machinery to restore its functionality is nearly equivalent to the cost of new machinery currently available.
 - d) **Net Realizable Value (NRV):** The NRV of the machinery has been assessed based on its weight per tonne, as the machinery is no longer usable.
 - e) **Rusted Raw Materials:** Similarly, the NRV of rusted raw materials has also been assessed based on weight per tonne, as they are no longer usable.
 - f) **Land and Building Valuation:** The valuation of Land & Building appears to be consistent with the current market value.
12. In light of the above observations, with the plant, machinery and raw materials rendered defunct and possessing only scrap value, the CoC opined that continuing with the CIRP and attempting to invite Prospective Resolution Applicants (PRAs) would likely be futile. The costs associated with inviting PRAs and the extended time required to complete the CIRP would significantly increase expenses without ensuring a fair value for the company's assets. Furthermore, the non-availability of key records in the factory, confirmed during joint verifications with APSFC on 08.04.2024 and 29.07.2024, further diminishes the prospects of selling the company as a whole. The CoC thoroughly deliberated on the matter regarding the maximization of asset value and opted for Liquidation Process.
13. Therefore, for the reasons stated above, the CoC decided and unanimously resolved to liquidate the CD, authorized the RP to file an application before this Tribunal seeking Liquidation of the CD and to appoint the RP as the Liquidator.
14. We have heard the Learned Resolution Professional and perused the records.



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15. In the 5th CoC meeting held on 13.09.2024¹, the CoC members voted in favour of the Liquidation of the Corporate Debtor with 100% voting share and passed the resolution which is as under:

"The COC, after on careful examination of Valuation Reports, NRV of assets value on scarp basis, limited availability of Basic Records and books of accounts, unusable status of raw materials valued on scrap basis and most importantly inter depended products of three other proprietary firms which were also in seizure condition located in the same compound and quantum of funds required i.e., cost of bringing back the Plant & Machinery to working condition is almost equal to the cost of new machinery, opined unanimously that the revival of the company is not economically viable and expresses the fear of lukewarm response from the PRAs if the process of EOI is resorted in CIRP route and it may further lead to value deterioration and also seriously jeopardize the prospects of other three proprietary firms of same products in the compound.

After detailed deliberations in length, the COC unanimously opined that liquidation of the company is the better option keeping in view of above stated circumstances. The APSFC, has informed the COC that, to opt for Liquidation Process, matter will be escalated to their higher authorities for approval. The Resolution Professional also expresses his willingness to continue as Liquidator in the event the COC recommend his candidature while taking a final decision on for Liquidation Process. The APSFC authorities informed that the decision will be communicated via email after getting the approval from higher authorities."



16. The CoC suggested the name of the Applicant Resolution Professional to appoint as the Liquidator. The Resolution Professional has also filed his written consent to act as the Liquidator in Form AA².
17. Taking into consideration the facts and circumstances of the present case and to protect the Asset value of the Corporate Debtor, this Authority is left with no option, but to order the Liquidation of Corporate Debtor, as prayed for in the Application. The Hon'ble Supreme Court in the matter of *K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018* has held that the commercial decision of CoC is non-justiciable. In

¹ 5TH CoC meeting - Page 23-26 of the Application.

² Written Consent of RP - Page 43 of the Application.

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this case, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.

18. Hence, this Adjudicating Authority deems it proper to allow this Application. Accordingly, in exercise of powers conferred under Sub-Clause (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the IBC 2016, we proceed to pass the Order as follows:

ORDER

- a) This Adjudicating Authority hereby order for Liquidation of M/S **VILLMAR AGRO POLYMERS PRIVATE LIMITED**, which shall be conducted in the manner as laid down in Chapter III of Part II of the IBC, 2016.
- b) This Adjudicating Authority hereby appoint **Mr. GUDIPATI SIVA RAMA PRASAD** (Reg. No: IBBI/IPA-002/IP-NO1233/2022-2023/14163) as Liquidator as resolved by CoC.
- c) The Liquidator shall issue public announcement stating that Corporate Debtor is in Liquidation.
- d) The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read



with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.

- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- j) 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 Liquidation process by the Liquidator.
- k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Andhra Pradesh, the Registered Office of the Corporate Debtor; and the Liquidator.

19. With the above directions IA(IBC)(LIQ)/4/2024 in CP(IB)/114/9/AMR/2022 is disposed of. Hence this Order.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)

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प्रमाणित प्रति/CERTIFIED TRUE COPY
केस संख्या IA(IBC)(LIQ)/4/2024 in
CASE NUMBER CPC(IBC)/114/9/AMR/2022
जिर्यद का तारीख
DATE OF JUDGEMENT ..06.11.2024
प्रति तैयार किया गया तारीख
COPY MADE READY ON ..08.11.2024

TN/Kum/
Deputy Registrar / Assistant Registrar /
Court Officer
NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH