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

**IA/839/IB/2020 in CP/514/IB/2017**

*(filed under Regulation 32 of the Insolvency and Bankruptcy Board of  
India (Liquidation Process) Regulations, 2016)*

**S. Dhanapal**

Liquidator of  
*M/s. Servalakshmi Paper Limited*  
Kodaganallur Village,  
Vaduganpatti Post, I.C. Pettai,  
Tirunelveli – 627 010

**-Vs-**

... *Applicant*

**Indian Overseas Bank**

Asset Recovery Management Branch  
11.952 Cross Cut Road, Gandhipuram,  
Coimbatore – 641 012

**Asset Reconstruction Company (India) Limited**

The Ruby, 10<sup>th</sup> Floor,  
29, Senapati Bapat Marg,  
Dadar (West), Mumbai – 400 028

**Pridhivi Asset Reconstruction and Securitization  
Company Limited**

Raja Praasadamu, 4<sup>th</sup> Floor,  
Wing No.1, Plot No.6,  
6A, 6B, Masjid Banda Road,  
Kondapur, Hyderabad – 500 084

**M/s. Sun Paper Mill Limited**

No.11/6, Ratnapuri, 2<sup>nd</sup> Street,  
Koyambedu, Chennai – 600 107

**M/s. Seshasayee Paper and Boards Limited**

Pallipalayam, Cauvery RS PO,  
Namakkal District,  
Erode – 638 007

... *Respondents*

Along with

**IA/843/IB/2020 in CP/514/IB/2017**

(filed under Regulation 44 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

**S. Dhanapal**

Liquidator of  
M/s. Servalakshmi Paper Limited  
Kodaganallur Village,  
Vaduganpatti Post, I.C. Pettai,  
Tirunelveli – 627 010

... Applicant

Order Pronounced on **26<sup>th</sup> November 2021**

CORAM

**R. SUCHARITHA, MEMBER (JUDICIAL)**

**SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant : H. Karthik Seshadri, Advocate  
S. Dhanapal, Liquidator

For Respondent : M.L. Ganesh, Advocate  
For R1

Abitha Banu, Advocate  
For R2

**COMMON ORDER**

**Per: R. SUCHARITHA, MEMBER (JUDICIAL)**

IA/839/IB/2020 is an Application filed by the Liquidator of M/s. Servalakshmi Paper Limited under Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 seeking relief as follows;

- a. To pass appropriate orders permitting the Liquidator to proceed further and sell the Business of the 'Corporate Debtor' as going concern as contemplated in the Order dated 27.02.2019 of the Hon'ble National

Company Law Appellate Tribunal, New Delhi in the interest of justice;

- b. To provide any other relief which may be found suitable to facilitate the Liquidator to discharge his functions effectively and such further orders be passed or directions be given as your Lordships may deem fit and proper;

2. The Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor viz. Servalakshmi Paper Limited was initiated by this Tribunal vide its order dated 21.06.2017 and since no Resolution Plan was approved by the CoC during the CIRP period, based upon the Applicant filed by the Resolution Professional, this Tribunal vide its order dated 24.04.2018 has ordered for Liquidation of the Corporate Debtor and appointed the Applicant herein as the Liquidator. Aggrieved by the said order of Liquidation, appeals were filed before the Hon'ble NCLAT by a promoter of the Corporate Debtor in Company Appeal (AT)(Ins) No. 224 of 2018 and also by one of the Financial Creditor of the Corporate Debtor who happened to be one of the unsuccessful Resolution Applicant in Company Appeal (AT)(Ins) No. 286 of 2018 and both the above said appeals came to be disposed of by a common order dated 27.02.2019. The Hon'ble NCLAT while disposing of the said Appeals have directed the Liquidator in para 8 to take steps in terms of Section 230 of the Companies Act, 2013 based upon its earlier decision rendered in **S.C. Sekaran -Vs-**



**Amit Gupta & Ors.** in *Company Appeal (AT)(Ins) No. 495 and 496 of 2018.*

3. Thereafter, it is seen that the Liquidator has caused public announcement in "Business Standard" and "Maalai Murasu" calling for Expression of Interest (EoI) for submission of a Scheme under Section 230 of the Companies Act, 2013 and pursuant to the same, two Schemes came to be propounded by two Scheme Applicants viz. (1) M/s. Seshasayee Paper and Boards Limited and (2) M/s. Sun Paper Mill Limited. Hence, the Liquidator moved MA/678/2019 to constitute a Committee of Creditors for placing the said two Schemes before the CoC for the purpose of ascertaining their opinion as to its viability and feasibility. In the said Application, directions were issued by this Tribunal vide its order dated 31.07.2019 and the meeting was held on 19.08.2019. After detailed discussions and deliberations, the CoC expressed its opinion in favour of Sun Paper Mill Limited who has proposed a sum of Rs.155 Crore and expressed its unfavourable opinion in relation to the scheme propounded by Seshasayee Paper and Boards Limited who has proposed a sum of Rs.160 Crore.

4. However, it is seen that based on the yardstick allegedly of Asset Maximization as expressed by the Hon'ble NCLAT by its order

dated 27.02.2019 at para 18, the Liquidator has placed both the Scheme before this Tribunal in CA/1266/2019 seeking relief as follows;

- a. To pass appropriate orders dispensing with holding any meetings of unsecured Creditors and meeting of shareholders for the approval of the Scheme.
- b. To approve either Scheme A submitted by M/s. Seshasayee Paper and Board Limited or Scheme B submitted by M/s. Sun Paper Mill Limited in the interest of justice.
- c. In the event Honourable Tribunal approves Scheme B, direct the Scheme Applicant viz. M/s. Sun Paper Mill Limited to pay the liquidation costs of full sum of Rs.2,73,30,264/- in modification of liquidation cost offered in Scheme B as approved by CoC and thus render justice.
- d. To provide any other relief which may be found suitable to facilitate the Liquidator to discharge his function effectively and such further orders be passed or directions be given as your Lordships may deem fit and proper.

5. This Tribunal in CA/1266/2019, vide its order dated 13.03.2020 has passed a detailed order in and by which it was directed to place both the Scheme A and Scheme B before the stakeholders and the Scheme proponents were advised to upwardly revise the amount offered before the stakeholders in order to achieve the maximization of the value of the assets.

6. Thereafter, it is seen that the Liquidator on 16.03.2020 identified the insolvency professionals who were willing to act as an authorized representatives and on 17.03.2020 the Liquidator has

caused a paper advertisement in "Business Standard" English and "Maalai Malar", Tamil. While the liquidator was in the midst of undertaking various activities in compliance with the directions issued by this Tribunal, M/s. Sun Paper Mill Limited, aggrieved by the order passed by this Tribunal date 13.03.2020 has filed an Appeal before the Hon'ble NCLAT vide Company Appeal (AT)(Ins) No. 451 of 2020 and the Hon'ble NCLAT vide its order dated 20.03.2020 has passed the following order;

Mr. Arun Kathpalia, learned counsel appearing on behalf of the Appellant submits that the only course open to the Adjudicating Authority was to approve the plan submitted by the Appellant which was approved by 100% voting share of the 'Committee of Creditors' constituted pursuant to the order passed on 27th February, 2019 by this Appellate Tribunal in 'Company Appeal (AT) (Insolvency) Nos. 224 and 286 of 2018'.

Let notice be issued on the Respondents by Speed Post. Requisites along with process fee be filed by today itself i.e. 20th March, 2020. If the Appellant provides the e-mail address of respondents, let notice be also issued through email.

List the matter 'for Admission (After Notice)' on 21st April, 2020.

Meanwhile, as an *ad-interim* operation of the impugned order is kept on hold till the next date of hearing.

7. Thereafter, the Appellant before the Hon'ble NCLAT had withdrawn the Appeal and the Hon'ble NCLAT vide its order dated 28.08.2020 has passed the following order;

Shri Aditya Verma, Advocate representing the Appellant seeks to withdraw the appeal as in terms of para 39 of the impugned order the Liquidator has been granted liberty to approach the

Adjudicating Authority (National Company Law Tribunal), Bench-I, Chennai as and when required for necessary directions. The appeal is accordingly dismissed as withdrawn

8. Immediately after withdrawing the Appeal, Sun Paper Mill Limited has sent an email communication on 30.08.2020 followed by a letter on 02.09.2020 to the Liquidator stating that the proposed draft Scheme already submitted with the Liquidator dated 11.09.2019 may be treated as withdrawn and may need not be further considered or placed for consideration under Section 230 of the Companies Act, 2013 and further it has been stated in the letter that the asset verification report has not been provided by the Liquidator and as a result of which they could not be able to ascertain the availability, condition, security and safety of the assets to arrive at a final settlement amount. In view, of the same, it was submitted by the Liquidator that as of now the position went back to the starting point which arose on 27.02.2019 when Hon'ble NCLAT directed the Liquidator to explore the possibility of revival of Corporate Debtor. It was also submitted that the Liquidator has moved two IA's viz. IA/844/IB/2020 and IA/846/IB/2020 before this Tribunal against two Scheme proponents to deposit a sum of Rs.2 Crore in the liquidation account of the Corporate Debtor against the withdrawal of the Scheme.





9. Under these circumstances, since the Liquidation process in relation to the Corporate Debtor commenced on 24.04.2018, the Liquidator has moved the present Application seeking permission of this Tribunal to proceed and sell the Business of the Corporate Debtor as a 'going concern' as per the order of the Hon'ble NCLAT dated 27.02.2019.

10. We have heard the submissions made by the Learned Counsel for the Liquidator and the Respondents. The present Application has been filed by the Liquidator before this Tribunal in the month of September 2020 and since the Liquidation Regulation which was prevailing on the date of Liquidation i.e. 24.04.2018, does not permit to sell the assets of the Corporate Debtor as a going concern, the Liquidator has moved the present Application before this Tribunal seeking directions accordingly. Further, it is also seen from the facts narrated above, that the Corporate Debtor is having valuable assets and from the submissions made by the Liquidator, it is seen that the Liquidator is also getting reasonable enquiry for the sale of assets. However, the assets of the Corporate Debtor was valued way back in the year 2018 and since then 3 years have elapsed, hence we feel that before conducting the sale of the assets of the Corporate Debtor as a 'going concern', the Liquidator is required to value all the assets of the Corporate





Debtor afresh. Thus, by taking into consideration the events which has transpired pursuant to the order passed by this Tribunal on 13.03.2020 and also being guided by the principle of maximization of the value of assets as enunciated by the Hon'ble NCLAT vide its order dated 27.02.2019 and also in the interest of justice, we deem it fit to pass the following directions;

- (i) The Liquidator is directed to carry out a fresh valuation of all the assets of the Corporate Debtor in terms of Regulation 35(2) of the IBBI (Liquidation Process) Regulations, 2016.
- (ii) After obtaining the Report from the valuers, the Liquidator is directed to take steps under Regulation 32(e) of the IBBI (Liquidation Process) Regulations, 2016 to sell the assets of the Corporate Debtor on a 'going concern' basis.
- (iii) The Mode of sale of the assets of the Corporate Debtor shall be done as per Regulation 33(1) of the IBBI (Liquidation Process) Regulations, 2016 and the e-auction should be done by the 40<sup>th</sup> day.
- (iv) All these exercises are required to be carried out by the Liquidator within a period of **90 days** from the date of this Order.
- (v) The Liquidator is directed to file a status report before this Tribunal within 35 day from the date of this order

to bring on record the steps taken by the Liquidator during the interim period.

**IA/843/IB/2020**

11. In relation to IA/843/IB/2020, it is an Application which is moved by the Liquidator seeking exclusion of 2 years from the Liquidation process as the Scheme propounded by the Scheme proponents have been withdrawn due to pandemic. Taking into consideration the directions passed by this Tribunal in IA/839/IB/2020 *supra*, the Liquidation period in relation to the Corporate Debtor is extended for a period of **90 days** from the date of this order.

12. With the above said directions, IA/839/IB/2020 and IA/843/IB/2020 stands **disposed of**.

-Sd-

**SAMEER KAKAR**  
MEMBER (TECHNICAL)

-Sd-

**R. SUCHARITHA**  
MEMBER (JUDICIAL)

*Raymond*