

NATIONAL COMPANY LAW TRIBUNAL  
SINGLE BENCH  
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 24.4.2018

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL

APPLICATION NUMBER : CA/152/IB/2018

PETITION NUMBER : CP/514/IB/2017

NAME OF THE PETITIONER(S) : S. DHANAPAL (IN THE MATTER OF  
SERVALAKSHMI PAPER LTD)

UNDER SECTION : 9 & 33

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
REPRESENTATION BY WHOM			

1) Vishnu Shanm  
ilb Phoenix  
Legal

Advocate for  
ARCIL.

2. R. ~~HYASHANKAR~~  
R. ASHOK KUMAR

Counsel for Applicant in C.A. 153/2018

RP

3) S. Dhanapal

A) For Employee here

Counsel for Job.



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

CA/152/IB/2018 in CP/514/IB/CB/2017  
filed by the Resolution Professional viz.,  
Mr. S. Dhanapal, under Section 33(1)(a) of  
the Insolvency and Bankruptcy Code,  
2016.

In the matter of

**Mr. Sakthi Energy Private Limited**

*... Operational Creditor*

Vs.

**M/s. Servalakshmi Paper Limited**

*... Corporate Debtor*

*Order delivered on 24<sup>th</sup> of April, 2018*

CORAM :

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**

*For RP : Mr. A.M. Ilango, Counsel*

*For IOB : Mr. F. Benjamin George, Counsel*

**ORDER**

Per: CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. This relates to CA/152/IB/2018 in CP/514/IB/CB/2017 filed by the Resolution Professional viz., Mr. S. Dhanapal, under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, (in short 'I&B Code, 2016'), for liquidation of the assets of the Corporate Debtor viz., M/s. Servalakshmi Paper Limited that has been undergoing Corporate Insolvency Resolution Process (CIRP) since 21.06.2017.



2. It may be recalled that an Application CP/514/IB/CB/2017 was filed under Section 9 of the I&B Code, 2016 by the Operational Creditor viz., M/s. Sakthi Energy Private Limited, which was admitted by this Bench vide its Order dated 21.06.2017; the CIRP was initiated against the Corporate Debtor viz., M/s. Servalakshmi Paper Limited; the moratorium was declared and the Applicant Mr. S. Dhanapal was appointed as Interim Resolution Professional (IRP) in the matter.

3. The Committee of Creditors (CoCs) was constituted, and 1<sup>st</sup> Meeting of the CoCs was conducted on 25.07.2017 wherein the CoCs unanimously resolved to continue IRP viz., Mr. S. Dhanapal as RP with the proposed remuneration of Rs.1,00,000/- per month each plus all expenses to be incurred by him while carrying out his duties as Resolution Professional. The copy of the 1<sup>st</sup> meeting dated 25.07.2017 is placed at page 38 of the typed set filed with the Application. Thereafter, the newspaper



advertisement seeking 'expression of interest' for providing Resolution Plan in respect of Corporate Debtor was published by the Resolution Professional one in English and another in vernacular. The copy of the advertisement is enclosed at pages 40 and 41 of the typed set filed with the Application.

4. The 2<sup>nd</sup> Meeting of CoCs was conducted on 13.12.2017, wherein it was resolved to seek extension of the period of CIRP for 90 days beyond 180 days. The copy of the minutes of 2<sup>nd</sup> meeting is placed at pages 42 to 51 of the typed set filed with the Application. Accordingly, the Applicant filed an Application before this Adjudicating Authority for extension of time of CIRP, and this Authority vide its Order dated 15.12.2017 extended the CIRP period for 90 days beyond 180 days from 17.12.2017. The copy of the extension order is placed at pages 52 and 53 of the typed set filed with the Application. The Resolution Professional has received two Resolution Plans, one from M/s. Assets Reconstruction Company India Ltd.



(ARCIL) and another from M/s. Sripathi Papers & Boards Private Limited.

5. The Resolution Professional has placed Resolution Plan submitted by the Resolution Applicant viz., ARCIL before the CoCs in its 7<sup>th</sup> meeting held on 11.04.2018 for approval. However, the Plan was not approved by the CoCs with the requisite votes in terms of provisions of the I&B Code, 2016. In other words, the Resolution Plan proposed by the Applicant viz., ARCIL could not be passed due to lack of required majority. Therefore, no Resolution Plan has been approved by the CoCs. In short, the outcome of the Meetings of the CoCs is that there is no chance of reviving of the Company and no Resolution Plan is in place. The time period of CIRP has expired on 17.03.2018.

6. The Resolution Professional has filed the Application under Section 33 (1) (a) of the I&B Code, 2016, on 16.03.2018, which has been listed before this Authority on 27.03.2018 and at the request of



Resolution Professional, the case was posted to 13.04.2018 for arguments. On 13.04.2018, the Resolution Professional was directed to place on record the latest developments as far as the Resolution Plan is concerned and posted the case to 23.04.2018. On 23.04.2018, the Counsel for Indian Overseas Bank (IOB), one of the Financial Creditors, was directed to place on record the outcome of the meeting which they had with ARCIL and the case was adjourned to 24.04.2018, and accordingly, a Memo was filed by Counsel for the IOB on 24.04.2018.

7. The IOB in its Memo dated 24.04.2018 enumerated the reasons for rejecting the Plan submitted by ARCIL and stated that the revival of the Corporate Debtor is not feasible and viable. The consortium of bankers rephrased the loan accounts of the Corporate Debtor in 2011 and January, 2012, facilitating repayment of the dues as per the fresh terms, and thereafter, at the request of Corporate Debtor, a restructuring package was approved under



CDR Scheme on 31.01.2014 and in spite of the genuine attempts, it could not be revived. The upfront payment of cash is very low and the total payments offered to IOB and PARAS are also very low compared to the outstanding and the liquidation value, and apparently, the Plan proposed by ARCIL and co-Applicants are not in the overall interest of CoCs, and therefore, the Bank did not find any merits in the investors proposal to mitigate the grounds that were listed out in the Meetings of CoCs held on 12.03.2018 and 11.04.2018 and based on which the CoCs voted with majority to liquidate the Corporate Debtor.

8. A perusal of the of the Minutes of the Meetings of CoCs reveal that till the expiry of the maximum period of CIRP, no Resolution Plan was approved by the CoCs under Sub-Section (4) of Section 30 of the I&B Code, 2016. Under these circumstances, the case falls within the purview of Section 33(1)(a) of the I&B Code, 2016, as no Resolution Plan has been received by this Authority, till the expiry of the maximum period



permitted for completion of the CIR Process under Section 12 of the I&B Code, 2016.

**ORDER**

9. In view of the facts and circumstances recorded by Resolution Professional in CA/152/IB/2018 filed in CP/514/IB/CB/2017, this Adjudicating Authority in exercise of powers conferred under Section 33(1)(a) of the I&B Code, 2016, proceed to pass order as follows: -

i. I hereby order for liquidation of the Corporate Debtor viz., M/s. Servalakshmi Paper 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 the Resolution Professional viz., Mr. S. Dhanapal 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. 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.
- v. I make it clear that para (iv) 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.
- vi. 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.

vii. 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 with the Company Liquidator viz., Mr. S. Dhanapal. 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.

viii. 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.



ix. The Company 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.

x. Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. S. Dhanapal for information and compliance. .

10. In terms of the above, CA/152/IB/2018 in CP/514/IB/CB/2017 filed by the Resolution Professional under Section 33(1)(a) of the I&B Code, 2016, for initiation of the Liquidation Proceedings



against the Corporate Debtor viz., M/s. Servalakshmi Paper Limited, stands disposed of.

11. A copy of this Order shall be sent to the Company Liquidator with immediate effect for information and compliance.

  
[CH.MOHD SHARIEF TARIQ]  
MEMBER (JUDICIAL)

P. ATHISTAMANI



Certified to be True Copy

  
N. SRIRAMASUBRAMANIAN  
ASSISTANT REGISTRAR  
NATIONAL COMPANY LAW TRIBUNAL  
CHENNAI BENCH  
CORPORATE BHAVAN, 3rd FLOOR  
29, RAJAJI SALAI, CHENNAI-600001.

28/4/18