

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

MA/1130/2019
IN
CP/612/IB/2018

*Application filed under sections 35(n) & 60(5) of the IBC, 2016 r/w Regulation 32 of IBBI
(Liquidation Process) Regulations, 2016 r/w Section 230 of the Companies Act, 2013*

In the matter of M/s. Senthil Papers and Boards Private Limited

Mr. P. Eswaramoorthy, Liquidator ...Applicant
Representing Corporate Debtor
(M/s. Senthil Papers and Boards Private Limited)

Order delivered on: 19.11.2019

CORAM:

**B.S.V PRAKASH KUMAR, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the Applicant: *Shri. B. Dhanaraj, Advocate*
For Shri. P. Eswaramoorthy, Liquidator

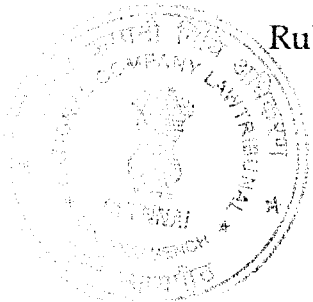
ORDER

Per: B.S.V PRAKASH KUMAR, MEMBER (JUDICIAL)

Order Pronounced on: 19.11.2019

It is an application filed by the Liquidator under Sections 35(n) & 60(5) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code") r/w 230 of the Companies Act, 2013 r/w Rule 3(1) of the Companies (Compromise, Arrangement & Amalgamation)

Rules, 2016 seeking reliefs as follows:



The Applicant/Liquidator prays that this Hon'ble Tribunal may be pleased to:

a) Pass an Order directing this Applicant for Calling, Holding and conducting of the Meeting of the Operational Creditors of the Corporate Debtor;

b) Pass an Order directing this Applicant for Calling, Holding and conducting of the Meeting of the Secured Financial Creditors of the Corporate Debtor;

c) Pass an Order directing this Applicant for Calling, Holding and conducting of the Meeting of the Unsecured Financial Creditors of the Corporate Debtor;

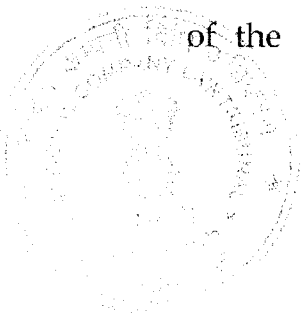
d) Pass an Order directing this Applicant for Calling, Holding and conducting of the Meeting of the Authorised Representative of Workman & Employees of the Corporate Debtor;

e) Pass an Order directing this Applicant for Calling, Holding and conducting of the Meeting of the Equity Shareholders/ Members of the Corporate Debtor;

f) Pass an Order granting an extension of 90 days from 02.08.2019, to follow and complete the entire process under section 230 of the Companies Act, 2013 considering the possibility of approval of the Scheme of Compromise or Arrangement;

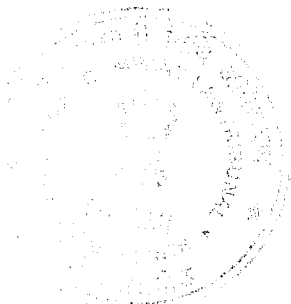
g) Pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.

2. Based on the scheme filed by the Resolution Applicant before the Liquidator, he has filed this application for holding the meetings of the Operational Creditors, Secured Financial Creditors, Unsecured



Financial Creditors, and Authorised Representative of Workman & Employees and Equity Shareholders of the Company for passing a Resolution in respect to the Scheme placed by the Applicant.

3. Looking at the reliefs sought by the Applicant, the Company Petition was admitted on 14.11.2017 for initiation of CIRP process, declaring moratorium with respect to the Corporate Debtor. Once the Company Petition is admitted for initiation of CIRP process, the CoC being the ultimate authority to take a call in respect to the management and affairs of the Corporate Debtor, we believe that the Shareholders will not come into picture to take a call in respect to the affairs of the Corporate Debtor. We do not therefore think the shareholders of this Corporate Debtor are left with any economic interest in the Corporate Debtor. One Mr. Sivachalam has appointed as the Interim Resolution Professional (IRP). Thereafter, the Committee of Creditors (COC) had confirmed the appointment of this Applicant as Resolution Professional of the Corporate Debtor in 4th CoC meeting held on 13.03.2018.



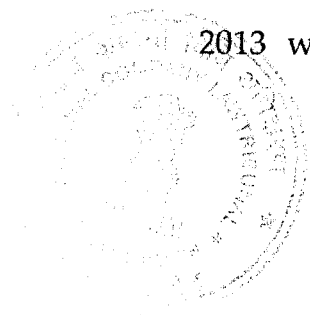
4. Thereafter, the erstwhile Director of the Corporate Debtor had filed a MA seeking for Exclusion of 92 days from the Maximum CIRP Period of 270 days under the I & B Code, this Tribunal has excluded the period of 92 days vide order dated on 20.08.2018 for the purpose of calculating 270 days CIRP Period. In accordance with the said Order, the applicant has caused a fresh Paper Publication on 08.10.2018 by way of Inviting Resolution Plans. Based on that the Ex-Director and another Company had submitted their respective Resolution Plans.

5. Thereafter, the applicant had placed the proposed Resolution Plans before the Committee of Creditors for consideration in the 9th CoC meeting held on 01.11.2018. The CoC after due consideration of the submitted Resolution Plans, had rejected both the Resolution Plans and had consciously resolved to file an application for Liquidation of Corporate Debtor. Thereafter the Resolution passed by the CoC, the Applicant had filed a MA under section 33(2) of the I & B Code, 2016 for Liquidation of the Corporate Debtor. This Bench had passed order liquidation of the Corporate Debtor on 14.02.2019.

6. Based on the Order dated 14.02.2019, the Ex-Director/ shareholder of the Corporate Debtor had preferred an Appeal before the Hon'ble NCLAT, New Delhi. The Hon'ble NCLAT by its order dated 03.05.2019 was pleased to dispose the Appeal with following observation and directions to the Applicant/ Liquidator in para 19:-

"In view of the observation aforesaid, we hold that the Liquidator is required to act in terms of the aforesaid directors of the Appellate Tribunal and take steps under section 230 of the Companies Act. If the Members or the 'Corporate Debtor' or the 'Creditors' or a class of creditors like 'Financial Creditors' or 'Operational Creditors' approach the company through liquidator for compromise or arrangement by making proposal of payment to all the creditors(s), the Liquidator on behalf of the Company will move an application under section 230 of the Companies Act, 2013 before the Adjudicating Authority i.e National Company Law Tribunal, Chennai Bench, in terms of the observation as made in above..."

7. In Pursuance of the NCLAT order date 03.05.2019, one Mr. C Arumugasamy, an Ex-Director had pleased a Scheme of Compromise/ Arrangement under section 230 of the Companies Act, 2013 with the Liquidator on 10.07.2019 same deliberated before



various meetings of Stakeholders. During the 4th meeting of Stakeholders on 29.07.2019, the committee had called for improved offer from the Member / Erstwhile promoters and for submitted revised scheme to the Liquidator on 31.07.2019. Pursuant to the direction of the this Tribunal, the applicant shall be able to process for compliance under section 230(3) to 230(6) provisions of the Companies act, 2013 and to attempt to produce the requisite majority votes constituting 3/4th in value of the Equity Shareholders for the scheme of Compromise/ Arrangement. In view thereof, we hereby dispose of this application with a direction to the Liquidator to hold the meetings of the Operational Creditors, Secured Financial Creditors, Unsecured Financial Creditors, Authorised Representative of Workman & Employees and Equity Shareholders as contemplated u/s 230 of the Companies Act, 2013 with directions as follows:

- i) There are 84 (Eighty Four) Operational Creditors in relation to the Corporate Debtor as on 14.02.2019, whose particulars are



placed at page 71 to 81 of the typed set filed with the Application.

- ii)** This Bench appoints Mr. P. Eswaramoorthy – Liquidator of Corporate Debtor as Chairman for conducting the meeting of Operational Creditors on 23.12.2019 at 10:30 A.M at Hotel Zone by the Park, 33/3, Avinashi Road, Lakshmi Mills, Coimbatore-641018. The quorum for meeting of the Operational Creditors shall be shall be 30 in number and constituting 25% or more of the operational credit or such number which is mentioned in the application, whichever is higher. The notices in respect of the above meetings of Operational creditors have to be sent to them at least not less than 30 days prior to the date fixed for meeting. The services of notice shall be effected by speed post/through electronic means, to the e-mail address of the members which are available with the Corporate Debtor. The Chairman for the meeting shall submit a report to this Authority within 7 days of holding meeting.



A handwritten mark or signature, possibly a stylized letter or initials, located at the bottom right of the page.

iii) There are 3 (Three) Secured Creditors and 4 (Four) Unsecured Financial Creditors and 1 (One) authorised Representative of Workmen & Employee in relation to the Corporate Debtor as on 14.02.2019, whose particulars are placed at page 69-70 & 81 of the typed set filed with the Application.

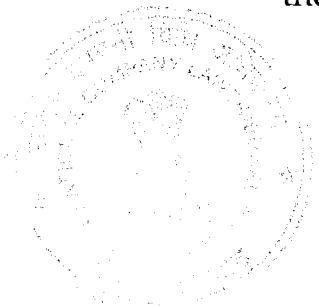
iv) This Bench appoints Mr. P. Eswaramoorthy – Liquidator of Corporate Debtor as Chairman for conducting the meetings of **Secured Creditors and Unsecured Financial Creditors and authorised Representative of Workmen & Employee on 23.12.2019 at 11:30 AM and 12:30 PM and 1:30 PM at Hotel Zone by the Park, 33/3, Avinashi Road, Lakshmi Mills, Coimbatore-641018.** The quorum for meeting of the secured creditors and unsecured financial creditors, and authorised Representative of Workmen & Employee shall be that all secured creditors and unsecured financial creditors, and authorised Representative of Workmen & Employee shall be present to the meeting. The notices in respect of the above meetings of secured creditors and unsecured financial

creditors and authorised Representative of Workmen & Employee have to be sent at least not less than 30 days prior to date fixed for meeting. The services of notice shall be effected by speed post/through electronic means, to the e-mail address of the members which are available with the Corporate Debtor. The Chairman for the meetings shall submit report on the secured creditors and unsecured financial creditors and authorised Representative of Workmen & Employee meeting within 7 days of holding such meeting.

8. Looking at the prayers made in the Application by the Corporate Debtor in relation to the Scheme of Arrangement, this Bench hereby directs in terms of Clause (5) of Section 230 and Sub-section (3) of the Companies Act, 2013 to issue notices to the Regional Director, Ministry of Corporate Affairs, ROC concerned, Income Tax Authorities and such other sectorial regulators or authorities, if necessary. In case the scheme is exempted under the Competition Act, 2002, an Affidavit to that effect is to be given, otherwise, notice to CCI may also be issued. Since the

Corporate Debtor is Unlisted Companies, there is no need to issue notices to SEBI and to the Stock Exchanges. The authorities are directed to make objections / representations, if any, within 30 days from the date of receipt of notice. In case no objection/representation is received within the stipulated time, it shall be deemed that they do not have any objections.

9. The Corporate Debtor is hereby directed to make separate publication of notices in newspapers one in English preferably in Business Standard (**Tamil Nadu Edition**) and another in vernacular preferably in, **Maalai Murasu (Circulated in Tamil Nadu)** having wide circulation in the State of Tamil Nadu 30 days before the date(s) fixed for the meetings. The Corporate Debtor is directed to place the notice on their website, if any, and also place the same on the notice board at the registered office of the Corporate Debtor. The Corporate Debtor is also directed to send private notices to the authorities by way of speed post and file proof of sending and effecting service of notices along with the paper publication by way of an Affidavit at the time of filing



Petition(s). The Registry is also directed to display the notice on the notice board of the NCLT, Chennai.

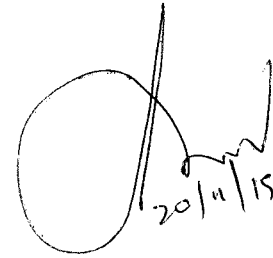
10. The Petition(s) may be presented after two weeks from the date of filing the reports by the Chairman of the meetings.

11. Accordingly, this MA/1130/2019 is hereby allowed.

-Sd-
(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

TJS



20/11/15



CONFIDENTIAL