

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

PRESENT: SHRI BHASKARA PANTULA MOHAN –HON'BLE ACTING PRESIDENT

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 07.08.2021 AT 10:30 AM

TRANSFER PETITION NO.	IA (IBC)/Nos. 76, 77, 78, 79, 80, 81, 82, 83, 84, 85 & 86/2021 in TCP(IB) NO. 41/9/AMR/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 423/9/HDB/2018
NAME OF THE COMPANY	Veda Biofuel Ltd
NAME OF THE PETITIONER(S)	Priya Trading Company
NAME OF THE RESPONDENT(S)	Veda Biofuel Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Heard both the parties. I.A.No.85/2021 is allowed, vide separate sheets. IA (IBC) Nos. 76, 77, 78, 79, 80, 81, 82, 83, 84, & 86/2021 are questioning the appointment is become infructuous.

**(BHASKARA PANTULA MOHAN)
ACTG. PRESIDENT**

RSN

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

**I.A.No.85 of 2021
IN
TCP (IB) No.41/9/AMR/2021**

**Under Section 34 (4) (a), 60 (5) of Insolvency and Bankruptcy
Code, 2016 Read with Rule 11 of the NCLT Rules, 2016**

In the matter of
M/s. VEDA BIOFUEL LIMITED

BETWEEN:

Mr.Ramakrishna Indrakanti,
1500 Horseshoe Drive, NY 1170 USA,
Equity Shareholder of Corporate Debtor (Under Liquidation),
Through his power of Attorney Holder,
Shri. Vutukuri Nagasrinivasa Rao, S/o. V.B.Tilak

.... Applicant

AND

Mr.Sisirkumar Appikatla,
Liquidator for M/s. Veda Biofuel Limited,
106, First Floor, Bharat Towers, 5th Lane,
Dwarakanagar, Vishakapatnam,
Andhra Pradesh -530016

.... Respondent

Order dated: 07.08.2021

Coram:

Hon'ble Bhaskara Pantula Mohan, Acting President.

Parties/Counsels present:

For the Applicant : Mr. S.Ravi, Senior Counsel
For the Respondent : Mr. Y.Suryanarayana, Advocate

ORDER

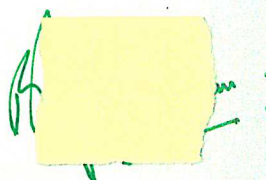
1. This is an Application filed Under Section Under Section 34 (4) (a), 60 (5) of Insolvency and Bankruptcy Code, 2016 seeking orders from this Hon'ble National Company Law Tribunal for:

- a. To pass an order for Replacement of the Liquidator in terms of Section 34(4) (a) of IBC, 2016;
- b. Direct the Liquidator to confirm from his records whether the depreciated value of the Plant & Machinery is less than Rs.50 Crore as per the latest MSME classification;
- c. Direct the Present Liquidator to take steps for a suitable Scheme of Compromise in accordance with, Regulation 2B of IBBI Regulations read with Section 230 of Companies Act or better than the plans received so far, till the new Liquidator has been appointed;
- d. The main intention of the IBC code is to achieve maximization of the enterprise value and bring back the economic activities of the Corporate Debtor and to take care of all the stakeholders' interests. Direct the Liquidator that no plan should be selected during Liquidation which is less than the debt settlement amounts received/offered so far by the Equity Shareholder(s) /Ex-Promoter of Corporate Debtor;
- e. Direct the Liquidator not to sell the assets of the Corporate Debtor less than the amount offered by the present equity shareholder;
- f. Direct the Liquidator to provide copy of minutes and the reports and Asset Memorandum and Balance Sheet of the Corporate Debtor that are filed with the Hon'ble Tribunal in compliance with Regulation 5;
- g. Direct the Liquidator to get the Balance Sheet of the Corporate Debtor audited in accordance with the IBBI

Regulations and to provide a copy of the Balance Sheet of the Company to the Applicant;

h. Direct the Liquidator to allow stakeholders to visit the plant to verify the condition of the assets as and when requested.

2. Heard, both the parties. This is an Application filed under Section 34 (4) (a) Read with Section 60 (5) of IBC, 2016 and also Read with Rule 11 of the NCLT Rules, 2016. The Applicant herein is one Mr.Ramakrishna Indrakanti who was the Equity Shareholder of the Corporate Debtor challenging the very appointment of Mr.Sisirkumar Appikatla as the Liquidator of the estate of the Corporate Debtor. There are several grounds on which this Application is made mainly with regard to the facts and the appointment of Liquidator is not in consonance with the Section 34 (4) (a) of IBC, 2016 and also failure on the part of the Respondent is in not informing his disqualification to the appointed as Liquidator and also providing misleading information, concealment of facts, failure of his duty in violation of Section 35 (d) of the IBC, 2016, etc. All the information, allegations made against the Liquidator may not be gone into at this point of time because this Tribunal is now is concerned only with the legal point whether the Respondent's appointment as Liquidator of the Corporate Debtor's estate is in consilience with the law or not.



3. The learned Senior Counsel Shri. S.Ravi, appearing for the Applicant submits that the appointment of Mr.Sisirkumar Appikarla prima facie is barred under law and if it is brought to the notice of Adjudicating Authority that the very appointment is null and void, as the Resolution Plan submitted by the said person has not been approved by this Adjudicating Authority and hence the disqualification of the Respondent as contained in Section 34(4) (a) is attracted and as a result of which his very appointment is *ab initio void*.
4. On the other hand the counsel appearing for the Respondent Shri. Y.Suryanarayana contends that the Order for Liquidation is dated 26.05.2020 where in Mr.Sisirkumar Appikarla was appointed as the Liquidator who was the erstwhile Resolution Professional for Corporate Debtor and there is no locus vested in the present Applicant to question the appointment of Mr.Sisirkumar Appikarla as the Liquidator of the Corporate Debtor. Apart from that lot of water has already flown after the appointment was made and any challenge to the said appointment or to the orders passed by this Adjudicating Authority on 26.05.2020 can be done only under Section 61 (1)/ (4) of the IBC, 2016 which provides for an appeal before the NCLAT. It is also pointed out that this Adjudicating



Authority has no power or authority to modify its own order and has to be done only by way of an appeal by an aggrieved party.

5. In Rejoinder Shri.S.Ravi, Senior Counsel submits that the proviso of Section 34 (4) (a) shall act like a *quo warranto* as in the cases of Writ Petitions and the very appointment is *ab initio void* and all the actions done by him are without authority and there is no need of any application to be filed by any aggrieved party. Any person can provide the information to this Tribunal that the Respondent or the person holding the charge or functioning as the Liquidator and his very appointment is null and void non-est in the eyes of law, then this Adjudicating Authority has the powers to replace him by following the provisions under Section 34 (4) (b) of IBC, 2016.
6. This Bench is conscious that an appeal challenging the Liquidation orders dated 26.05.2020 is pending before Hon'ble National Company Law Appellate Tribunal. I have considered the submissions made by both the parties and after looking into the legal position carefully and after analysing the same on the basis of the assistance rendered by both the counsels, I am convinced that the appointment of Mr.Sisirkumar Appikatla is null and void and non-est in the eye of law.

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7. As contended by the learned Senior Counsel, Shir.S.Ravi, I fully agree with the point that the proviso does not provide for any application to be made by any aggrieved person with regard to the invocation of Section 34 (4) (a) of IBC, 2016 and the language with which the provision made is very clear and enables this Adjudicating Authority to set-aside the appointment of Mr.Sisirkumar Appikatla as the Liquidator of the Corporate Debtor. At the same time I am also very clear that this order shall not come in the way on interferes with the of appeal pending before the Hon'ble National Company Law Appellate Tribunal for the reason that this Adjudicating Authority not venturing into or transgressing his powers in any manner and this order is confined only to the extent of replacement of Mr.Sisirkumar Appikatla as the Liquidator of the Corporate Debtor.
8. Therefore, I hold that the appointment of Mr.Sisirkumar Appikatla as the Liquidator of the Corporate Debtor Company is non-est/illegal and *ab initio void*.
9. The Registry is directed to write to the IBBI immediately, pointing out the replacement of Mr.Sisirkumar Appikatla with some other person as suggested by the IBBI.



10. The Applicant also filed a memo, suggesting the name of one Dr.Kondapalli Venkata Srinivas (**IBBI/IPA-001/IP-P00520/2017-18/10945**), practising advocate and also Insolvency Professional may be appointed as the Liquidator of the Corporate Debtor and this Bench only makes a suggestion to the IBBI not it is the discretion of the IBBI to suggest any other name. I repeat, this is only a suggestion and this Bench is conscious of the powers vested in them and it is call of the IBBI to consider the suggestion or not. Hence this Order.

Accordingly, IA No.85 of 2021 IN TCP (IB) No.41/9/AMR/2019 is disposed off and I.A.Nos.76/2021, 77/2021, 78/2021, 79/2021, 80/2021, 81/2021, 82/2021, 83/2021, 84/2021 & 86/2021 pending before this Bench questioning the appointment becomes infructuous.



**BHASKARA PANTULA MOHAN
ACTING PRESIDENT**

Swamy Naidu

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

PRESENT: SHRI BHASKARA PANTULA MOHAN -HON'BLE ACTING PRESIDENT
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 03.09.2021 AT 10:30 AM

TRANSFER PETITION NO.	TCP(IB)No.41/9/AMR/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) No. 423/9/HDB/2018
NAME OF THE COMPANY	Veda Biofuel Limited
NAME OF THE PETITIONER(S)	Priya Trading Company
NAME OF THE RESPONDENT(S)	Veda Biofuel Limited
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Matter in issue is coming up for the Appointment of Liquidator in the place of Sri Sisir Kumar Appikarla. This Bench has suggested the name of Sri Kondapalli Venkata Srinivas, Resolution Professional (RP) with Registration No.IBB/PA-001/IP-P00520/2017-18/10945 may be appointed as the Liquidator. This name was referred to the IBB in earlier order dated 07.08.20321. Subsequently, on 24.08.2021 the IBB had replied to the Dy. Registrar, NCLT, Amaravati Bench that the name of Sri Kondapalli Venkata Srinivas is not included in the list of RPs empanelled under the Amaravati Bench. However, it is made clear that no disciplinary proceedings are pending against Sri Kondapalli Venkata Srinivas. Even though the said Mr. Kondapalli Venkata Srinivas is not empanelled as an RP before this Bench, this Bench has confidence that the said Sri Kondapalli Venkata Srinivas would render his job with utmost integrity and fairness. This Bench is inclined to appoint him as Liquidator in exercise of powers available to this Bench to the extent of powers under Section 34, sub-section 7 of the IBC. The salary and other things shall remain the same as that of earlier Liquidator and there is no variation what-so-ever in this regard. Hence, this Order.

30/-

Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Amaravati Bench

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प्रमाणित प्रति
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केस संख्या: CP(IB)No. 423/9/2018
निर्णय का तारीख: 03.09.2021
प्रति तैयार किया गया तारीख: 20.09.2021
COPY MADE READY ON: 20.09.2021

(BHASKARA PANTULA MOHAN)
ACTING PRESIDENT

