

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH**

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**IA Nos. 64/2020; 66/2020; 67/2020 and 68/2020**

**in**

**TCP (IB) No. 41/9/AMR/2019**

**[CP (IB) No. 423/9/HDB/2018]**

**In the matter of Veda Biofuel Limited**

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**Dated 26<sup>th</sup> May, 2020**

The regular court proceedings have been suspended/closed as per Notice dated 22.03.2020 of NCLT, Principal Bench and subsequent follow up orders due to the COVID-19 pandemic. The order in this case is ready. Counsel for the parties are present in the Video Conference (VC). Order is pronounced in the open Court as separate sheets. The IAs are rejected. No costs.

Upload the same onto the NCLT website. A copy of the order may also be sent to the Registrar, NCLT as per Circular dated 14.04.2020 for necessary action at his end.



**MEMBER JUDICIAL**

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH**

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**IA Nos. 64/2020;  
66 of 2020; 67 of 2020  
& 68 of 2020 in  
TCP (IB) No. 41/9/AMR/2019  
[CP (IB) No. 423/9/HDB/2018]**

**In the matter of M/s Veda Biofuel Limited**

**IA No. 64 of 2020**

**In the matter of an Application under Sections 30 and 31 of  
the Insolvency and Bankruptcy Code, 2016**

Mr. Sisir Kumar Appikatla  
Resolution Professional for Veda Biofuel Limited  
No.106, First Floor, Bharat Apartments,  
Dwarakanagar, 5<sup>th</sup> Lane, Visakhapatnam – 530 016,  
Andhra Pradesh. ... **Applicant**

**Appearance:**

For Applicant: Mr. V. Suryanarayana with Ms. B. Aparna,  
Advocates.

**IA No. 66 of 2020**

**In the matter of an Application under Section 60 (5) of the  
Insolvency and Bankruptcy Code, 2016**

**Between**

Orion Ferro Alloys Private Limited  
155, O. P. Jindal Industrial Park,  
Punjipathra – 496 109,  
Raigarh, Chattisgarh. ... **Applicant**

**and**

1. Mr. Sisir Kumar Appikatla  
Resolution Professional for Veda Biofuel Limited  
No.106, First Floor, Bharat Apartments,  
Dwarakanagar, 5<sup>th</sup> Lane, Visakhapatnam – 530 016,

2. Bank of Baroda (Member of CoC)  
13-26-2, Apuroopa Arcade,  
Maharanipeta, Near Jagadamba Centre, Visakhapatnam – 530 002.



3. Bank of India (Member of CoC)  
1<sup>st</sup> Floor, Isnar Plaza Towers,  
II Lane, Dwaraka Nagar,  
Visakhapatnam – 530 016.

4. Central Bank of India (Member of CoC)  
RTC Complex, 8-9-10,  
RTC Complex Inner Road,  
Near Post Office, Dwaraka Nagar,  
Visakhapatnam – 530 020.

... Respondents

**Appearance:**

For Applicant: Mr. Sanjay Kumar Sharda, PCA  
For Respondents: Mr. V. Suryanarayana with Ms. B. Aparna,  
Advocates for R1.

**IA No. 67 of 2020**

**In the matter of an Application under Section 60 (5) of the  
Insolvency and Bankruptcy Code, 2016**

**Between**

Madhusudhan Raju Chintalapati  
Villa 81, Lumbini SLN springs,  
Near SLN Terminus Mall,  
Gachibowli, Hyderabad – 500 032,  
Telangana.

... Applicant

**and**

1. Veda Biofuel Limited  
represented by its Resolution Professional Mr. Sisir Kumar Appikatla  
No.106, First Floor, Bharat Apartments,  
Dwarakanagar, 5<sup>th</sup> Lane,  
Visakhapatnam – 530 016, Andhra Pradesh.

2. Committee of Creditors, Veda Biofuel Limited  
106, First Floor, Bharat Apartments,  
Dwarakanagar, 5<sup>th</sup> Lane,  
Visakhapatnam – 530 016.

... Respondents

**Appearance:**

For Applicant: Mr. Duvva Pavan Kumar along with Shraddha  
Gupta, Advocates  
For Respondents: Mr. V. Suryanarayana with Ms. B. Aparna,  
Advocates for R1.



**IA No. 68 of 2020**

**In the matter of an Application under Section 60 (5) of the  
Insolvency and Bankruptcy Code, 2016**

**Between**

Madhusudhan Raju Chintalapati,  
Villa 81, Lumbini SLN Springs,  
Near SLN Terminus Mall,  
Gachibowli, Hyderabad – 500 032,  
Telangana.

... **Applicant**

**And**

1. Veda Biofuel Limited  
represented by Resolution Professional Mr. Sisir Kumar Appikarla  
No.106, First Floor, Bharat Apartments,  
Dwarakanagar, 5<sup>th</sup> Lane,  
Visakhapatnam – 530 016, Andhra Pradesh.

2. Committee of Creditors  
Veda Biofuel Limited  
106, First Floor, Bharat Apartments,  
Dwarakanagar, 5<sup>th</sup> Lane,  
Visakhapatnam – 530 016.

... **Respondents**

**Appearance:**

For Applicant: Mr. Duvva Pavan Kumar with Shraddha Gupta,  
Advocates

For Respondents: Mr. V. Suryanarayana with Ms. B. Aparna,  
Advocates for R1.

**Date of Order: 26.05.2020**

**CORAM:**

**Hon'ble Janab Mohammed Ajmal, Member Judicial**

**ORDER**

This order relates to interconnected prayers made in the aforesaid IAs  
and would be covered hereunder.



2. Relevant facts leading to the Applications may thus be stated. One M/s Priya Trading Company brought in a Petition (CP (IB) No. 423/9/HDB/2018) under section 9 of the Insolvency & Bankruptcy Code 2016 (the Code) against M/s Veda Biofuel Limited, Vishakhapatnam (hereinafter referred to as the Corporate Debtor) seeking Corporate Insolvency Resolution Process (CIRP). The NCLT Hyderabad Bench (before which it was then pending) by order dated 12.02.2019 admitted the Petition and appointed Mr. Gonugunta Murali as the IRP. The Committee of Creditors (CoC) in its meeting dated 14.03.2019 appointed him as the Resolution Professional (RP). The matter was transferred to this Authority upon its establishment on 29.07.2019. This Authority by order dated 27.09.2019 in IA No. 19 of 2019 appointed Mr. Sisir Kumar Applikatla as the RP replacing Mr. Murali.
3. The term of CIRP (180 days) was due to expire on 11.08.2019. The RP sought extension of the CIRP period as per the Resolution of the CoC dated 03.08.2019. This Authority by order dated 26.08.2019 in IA No. 6 of 2019 extended the period of CIRP up to 09.11.2019. It was further extended by 60 days by order dated 31.10.2019 in IA No. 27 of 2019. Meanwhile, on 25.02.2019 one Mr. P. Vijay Kumar the erstwhile Chairman and Managing Director of the Corporate Debtor had filed Company Appeal (AT) (Insolvency) No. 204 of 2019 before the Hon'ble NCLAT. The Hon'ble NCLAT by order dated 11.09.2019 dismissed the Appeal. Consequent upon the issuance of notice for Expression of Interest (EoI) two prospective Resolution Applicants namely M/s Orion Ferro Alloys Private Limited and Mr. Madhusudhan Raju Chintalapati submitted Resolution Plans. The extended period of CIRP ended on 08.01.2020. Upon an Application in IA No. 13 of 2020 this Authority by order dated 24.01.2020 extended the period of CIRP by two weeks with effect therefrom. The period of CIRP was further extended by four weeks from 12.02.2020 by order of the even date in IA No. 23 of 2020.
4. The Resolution Professional on 08.11.2019 invited Expression of Interest (EoI) afresh as per the Resolution dated 06.11.2019 adopted in the 14<sup>th</sup> meeting of the CoC. In response thereto the aforesaid two Applicants

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submitted their EoI. The Committee of Creditors (CoC) however, authorised the Resolution Professional to negotiate with the prospective Resolution Applicants to improve upon their plans. No better Resolution Plans were however, submitted. Meanwhile on 25.10.2019 one of the Resolution Applicants Mr. Madhusudhan entered into an agreement with Vijay Kumar Penmetsa, (Former Managing Director of the Corporate Debtor) where under the former agreed to invest substantial amount detailed therein. Under the restructured shareholding pattern, he (Madhusudhan) would have 50% shareholding and P. Vijay Kumar would have 30.81% shareholding with four others as minor shareholders. The duo, on 27.01.2020, filed IA No. 15 of 2020 seeking direction to the Resolution Professional to place the Restructuring Plan submitted by Mr. Madhusudhan before the CoC for consideration. This Tribunal by an order dated 04.02.2020 disposed of the Application since the counsel for the RP/CoC raised no objection nor filed a counter. Mr. Madhusudhan submitted an affidavit confirming his eligibility under section 29A of the Code. KKMK and Associates, Chartered Accountants also furnished a certificate that Mr. Madhusudhan was not disqualified under section 29A of the Code. Mr. Madhusudhan withdrew the original Resolution Plan that he had submitted in response to the invitation of EoI dated 08.11.2019. The other Resolution Applicant M/s Orion Ferro Alloys Private Limited also did not furnish any revised Resolution Plan. Meanwhile the Ex-Promoter P. Vijay Kumar and Madhusudhan (as First Part) entered into a settlement agreement on 06.02.2020 with the Operational Creditor M/s Priya Trading Company (Second Part) for withdrawal of the Application and the same was placed before the CoC in terms of Section 12A of the Code. The CoC deliberated upon the materials placed before it in its meeting held on 03.03.2020. It approved the Resolution Plan in the nature of the Restructuring Plan submitted by Mr. Madhusudhan and approved the same as the successful Resolution Plan with 96.39% of voting share (all Financial Creditors). The CoC authorised the RP to make an Application before this Authority for approval of the Resolution Plan. The RP accordingly filed IA



No. 64 of 2020 on 12.03.2020 under section 30(6) of the Code seeking approval.

5. The matter was heard on 16.03.2020 and was reserved for orders. Meanwhile the World Health Organisation had on 30<sup>th</sup> January 2020 declared 2019-nCov (later named as Covid-19) as a Public Health Emergency of International Concern. In order to restrict its spread in India, the Government of India issued directions suspending most activities. Restriction on hearing of cases was thus imposed by order dated 15.03.2020 of the NCLT, Principal Bench. Matters posted between 16.03.2020 and 27.03.2020 were adjourned. 'Janata Curfew' was imposed on 22.03.2020 and complete lockdown was announced with effect from the midnight of 24.03.2020 till 14.04.2020. It was further extended till 03.05.2020. The NCLT Principal Bench by circular dated 15.04.2020 permitted hearing of the urgent matters through VC.
6. While the matter stood thus, M/s Orion Ferro Alloys Private Limited, one of the Resolution Applicants, filed IA No. 66 of 2020 by Email dated 01.05.2020 praying to hear it before any orders in IA No. 64 of 2020 could be passed. It challenged the decision of the CoC on various grounds detailed in the Petition.
7. Mr. Madhusudhan Raju Chintalapati on 11.05.2020 filed IA No. 67 of 2020 praying to implead him as a party in IA No. 64 of 2020 and accord him an opportunity of being heard before orders therein could be passed. The same day he also filed IA No. 68 of 2020 for making necessary modification to the Resolution Plan (Restructuring Plan) necessitated by the dramatic change in the economic scenario, market dynamics and availability of manpower resulting from Covid-19. He accordingly prayed to stay adjudication of IA No. 64 of 2020 and grant him sufficient time for making necessary modifications to the Resolution Plan submitted by him.
8. The IAs were heard together since the prayers made in IA Nos. 66 and 68 of 2020, if allowed, could impact the decision in IA No. 64 of 2020. All the IAs thus shall abide by the orders passed herein.
9. The Corporate Debtor while being managed by P. Vijay Kumar fell into debt and was unable to make payments. Accordingly one of the Operational



Creditors moved this Authority seeking Corporate Insolvency Resolution. This led to the admission of the Company Petition as per order dated 12.02.2019. The purpose of the Code is to keep the Corporate Debtor as a going concern and bring in a new management to efficiently run and carry it forward. In this connection, the erudite observation of the Hon'ble Apex Court in **Innoventive Industries v. ICICI Bank: (2018) 1 SCC 407** may profitably be quoted.

“Under Section 17, the erstwhile management of the corporate debtor is vested in an interim resolution professional who is a trained person registered under Chapter IV of the Code. This interim resolution professional is now to manage the operations of the corporate debtor as a going concern under the directions of a committee of creditors appointed under Section 21 of the Act. Decisions by this committee are to be taken by a vote of not less than 75% of the voting share of the financial creditors. Under Section 28, a resolution professional, who is none other than an interim resolution professional who is appointed to carry out the resolution process, is then given wide powers to raise finances, create security interests, etc. subject to prior approval of the committee of creditors.

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Under Section 30, any person who is interested in putting the corporate body back on its feet may submit a resolution plan to the resolution professional, which is prepared on the basis of an information memorandum. This plan must provide for payment of insolvency resolution process costs, management of the affairs of the corporate debtor after approval of the plan, and implementation and supervision of the plan. It is only when such plan is approved by a vote of not less than 75% of the voting share of the financial creditors and the adjudicating authority is satisfied that the plan, as approved, meets the statutory requirements mentioned in Section 30, that it ultimately approves such plan, which is then binding on the corporate debtor as well as its employees, members, creditors, guarantors and other stakeholders. Importantly, and this is a major departure from previous legislation on the subject, the moment the adjudicating authority approves the resolution plan, the moratorium order passed by the authority under Section 14 shall cease to have effect. The scheme of the Code, therefore, is to make an attempt, by divesting the erstwhile management of its powers and vesting it in a professional agency, to continue the business of the corporate body as a going concern until a resolution plan is drawn up, in which event the management is handed over under the plan so that the corporate body is able to pay back its debts and get back on its feet.”



10. Further in **Swiss Ribbons v. Union of India: (2019) 4 SCC 17** the Hon'ble Court observed:

“As is discernible, the Preamble gives an insight into what is sought to be achieved by the Code. The Code is first and foremost, a Code for reorganization and insolvency resolution of corporate debtors. Unless such reorganization is effected in a time-bound manner, the value of the assets of such persons will deplete. Therefore, maximization of value of the assets of such persons so that they are efficiently run as going concerns is another very important objective of the Code. This, in turn, will promote entrepreneurship as the persons in management of the corporate debtor are removed and replaced by entrepreneurs. When, therefore, a resolution plan takes off and the corporate debtor is brought back into the economic mainstream, it is able to repay its debts, which, in turn, enhances the viability of credit in the hands of banks and financial institutions. Above all, ultimately, the interests of all stakeholders are looked after as the corporate debtor itself becomes a beneficiary of the resolution scheme workers are paid, the creditors in the long run will be repaid in full, and shareholders/ investors are able to maximize their investment. Timely resolution of a corporate debtor who is in the red, by an effective legal framework, would go a long way to support the development of credit markets. Since more investment can be made with funds that have come back into the economy, business then eases up, which leads, overall, to higher economic growth and development of the Indian economy. What is interesting to note is that the Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern (see Arcelor Mittal at para 83, fn 3).

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It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters / those who are in management. Thus, the resolution process is not adversarial to the corporate debtor but, in fact, protective of its interests. The moratorium imposed by Section 14 is in the interest of the corporate debtor itself, thereby preserving the assets of the corporate debtor during the resolution process. The timelines within which the resolution process is to take place again protects the corporate debtors assets from further dilution, and also protects all its creditors and workers by seeing that the resolution process goes through as fast as possible so that another management can, through



its entrepreneurial skills, resuscitate the corporate debtor to achieve all these ends.”

11. The aforesaid would indicate that the erstwhile management ought not to have any role in the forward continuance of the Corporate Debtor. Section 29A is also a step in that direction. Any former promoter(s) cannot have any involvement in the new management of the Corporate Debtor. The Resolution Professional received two Resolution Plans in response to his advertisement dated 08.11.2019. The CoC authorised the RP to negotiate with the Applicants to improve upon the offers made by them. The outcome of such negotiation, if any, with them is not known nor has been brought to the notice of the CoC. This Authority in its order dated 31.10.2019 observed that no development (with regard to the CIRP) has been brought to the notice of the Authority during the extended period. No headway has apparently been achieved in negotiating with the perspective Resolution Applicants till 27.01.2020. Meanwhile the former Managing Direction Mr. P. Vijay Kumar entered into an agreement with one of the Resolution Applicants on 25.10.2019 lowering his stake in the Corporate Debtor from 45.32% to 30.81%. The same is also reflected as follows in the Restructuring Plan presently under consideration.

**Present Shareholding:**

Name of the Shareholder	No. of Shares	% of holding
Mr. Vijay.K Penmetsa	1,75,33,095	45.32
Mr. Vijay Friends & Associates	58,11,400	15.02
Mr. Sriram & Family	1,01,57,893	26.26
Mr. M V Rama Raju & Others	29,95,930	7.74
Other Share Holders from US	21,91,000	5.66
Total Share Holdings	3,86,89,318	100.00

**ew Shareholding after the Restructure:**

Name of the Share holder	Category of Share holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP



Madhu sudhan Raju Ch.	Equity	NIL	4,02,68,456	NIL	51%
Existing Share holders	Equity	3,86,89,318	3,86,89,318	100%	49%
		3,86,89,318	7,89,57,774	100%	100%

12. The agreement dated 25.11.2019 (filed in IA No. 15 of 2020) contains the new shareholding patterns as follows.

“The new shareholding pattern of the Veda Biofuel Ltd., shall be in the manner following as below, and any changes can be allowed as agreed by both parties;

S.No	Share Holder Name	No. of Shares	% of Shareholding
1	Madhu Chintalapati	1,93,44,659	50.00
2	Vijay Penmetsa Group	1,19,21,695	30.81
3	Ch. Ramaseetha Group	18,38,000	4.75
4	P.V. Sujatha	33,93,400	8.77
5	P.N Raju Group	3,80,000	0.98
6	Others	18,11,564	4.68
	<b>Total Shares</b>	<b>3,86,89,318</b>	<b>100.00</b>

13. IA No. 15 of 2020 was placed before Special Bench on 04.02.2020 which passed the following order.

“Counsel for the Applicant and Counsel for the RP/CoC present. IA No.15 of 2020 filed by Mr. P. Vijay Kumar, Ex-Managing Director of the Corporate Debtor and one Mr. Madhusudhan Raju Chintalapati, New Investor praying as follows;

*“Direct the Resolution Professional of the Corporate Debtor to place the restructuring plan before the CoC to consider/evaluate the restructure proposal as per law as submitted by Applicant No.2.”*

Counsel for the RP/CoC reported no counter and no objection, and accepted do place the restructuring plan before the CoC for discussion as prayed by the Applicant.

In view of the above undertaking and submissions made by RP, this IA No. 15 of 2020 is closed and disposed of.”

14. Mr. P. Vijay Kumar and Mr. Madhusudhan, after securing the above order dated 04.02.2020, entered into a Settlement Agreement on 06.02.2020 with



the Operational Creditor M/s Priya Trading Company for withdrawal of the CP. The Settlement Agreement as well as the Restructuring Plan were placed for consideration before the CoC in its meeting dated 03.03.2020. The CoC did not consider the matter of withdrawal of the CP. Ostensibly swayed by the order dated 04.02.2020, it approved the Restructuring Plan as the Resolution Plan. As already indicated the Resolution Plans submitted earlier in response to the invitation dated 08.11.2019 were not considered. The Restructuring Plan is the product of an agreement between one of the Resolution Applicants and the erstwhile Promoter and Managing Director of the Corporate Debtor. The said Managing Director would continue to hold substantial stake, though less than before, in the new management under the Restructuring Plan. The Restructuring Plan submitted pursuant to the agreement dated 25.10.2019 thus cannot be conceived as a Resolution Plan in terms of Section 30 of the Code, despite the same having been submitted only by Mr. Madhusudhan. Section 29A was inserted by an amendment in the Code through Act 8 of 2018. The statement of 'Objects and Reasons' appended to the Insolvency & Bankruptcy Code (Amendment) Bill 2017 which became Act 8 of 2018 as referred to by the Hon'ble Apex Court in **Chitra Sharma v. Union of India (WP (Civil) No. 744 of 2017 decided on 09.08.2018)** is as follows.

"The provisions for insolvency resolution and liquidation of a corporate person in the Code did not restrict or bar any person from submitting a resolution plan or participating in the acquisition process of the assets of a company at the time of liquidation. Concerns have been raised that persons who, with their misconduct contributed to defaults of companies or are otherwise undesirable, may misuse this situation due to lack of prohibition or restrictions to participate in the resolution or liquidation process, and gain or regain control of the corporate debtor. This may undermine the processes laid down in the Code as the unscrupulous person would be seen to be rewarded at the expense of creditors. In addition, in order to check that the undesirable persons who may have submitted their resolution plans in the absence of such a provision, responsibility is also being entrusted on the committee of creditors to give a reasonable period to repay overdue amounts and become eligible." (emphasis supplied) Parliament was evidently concerned over the fact that persons whose misconduct has contributed to defaults on the part of bidder companies misuse the absence of a bar on their participation in the resolution process to gain an entry. Parliament was of the view that to allow such persons to



participate in the resolution process would undermine the salutary object and purpose of the Act. It was in this background that Section 29 A has now specified a list of persons who are not eligible to be resolution applicants.”

15. Referring to the same the Hon’ble Court cautioned in the following words.

“The Court must bear in mind that Section 29 A has been enacted in the larger public interest and to facilitate effective corporate governance. Parliament rectified a loophole in the Act which allowed a back-door entry to erstwhile managements in the CIRP. Section 30 of the IBC, as amended, also clarifies that a resolution plan of a person who is ineligible under Section 29 A will not be considered by the CoC.”

16. The Restructuring Plan which, as already indicated, cannot be reckoned as a Resolution Plan seeks to afford a backdoor access to the former Managing Director of the Corporate Debtor. Such an action is prohibited under law. The Restructuring Plan masqueraded as a Resolution Plan by Mr. Madhusudhan accordingly cannot be accepted, notwithstanding its approval by the CoC. Such approval cannot be said to be in conformity with section 30(2) of the Code. Restructuring Plan in the garb of a Resolution Plan having failed to garner acceptance of this Authority, further prayer in IA No. 68 of 2020 by the Resolution Applicant to grant him sufficient time to make necessary modification to the said Resolution Plan cannot therefore, be acceded to. Impleadment of Mr. Madhusudhan as a party in IA No. 64 of 2020 has thus become redundant. The Settlement Agreement dated 06.02.2020 entered into between P. Vijay Kumar and Mr. Madhusudhan (as First Part) with the Operational Creditor was placed before the CoC. This Agreement is subsequent to the order dated 04.02.2020 (in IA No. 15 of 2020) and submission of the Restructuring Plan. No reason is assigned in the meeting of the CoC on 03.03.2020 as to why the Settlement Agreement was not taken into consideration. The same having not been done in terms of section 12A of the Code, this Authority would not be in a position to pass any comment in relation thereto.

17. The prerogative of the CoC in not considering the Resolution Plan submitted by M/s. Orion Ferro Alloys Private Limited and Mr. Madhusudhan Raju Chintalapati cannot be evaluated by the Authority. The commercial wisdom of the CoC in accepting a Resolution Plan needs to be



respected by the Adjudicating Authority. The same has been held by the Hon'ble Apex Court in **K Sashidhar v. Indian Overseas Bank & Others (Civil Appeal No. 10673/2018 decided on 05.02.2019)** and reiterated in the case of **CoC of Essar Steel (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019)**. Therefore, the non-acceptance of the Plan submitted by M/s Orion Ferro Alloys Private Limited (Applicant in IA No. 66 of 2020) cannot be gone into by the Adjudicating Authority. Having said that it would not be out of place mention here that the Adjudicating Authority can evaluate a Resolution Plan if it conformed to terms of section 30 (2) of the Code. As already indicated the Resolution Plan approved by the CoC does not meet the requirements of section 30 (2) of the Code. The same therefore, could not be accepted. Its non-acceptance however would not automatically render the Plan submitted by M/s Orion Ferro Alloys Private Limited acceptable. Therefore, the Applicant in IA No. 66 of 2020 would not get any relief from this Authority. Hence ordered.

#### **ORDER**

The Applications in IA No. 64 of 2020, IA No. 66 of 2020, IA No. 67 of 2020 & IA No. 68 of 2020 are rejected on contest. The Resolution Plan submitted in IA No. 64 of 2020 is rejected under section 31(2) of the Code. Prayers made in IA No. 66 of 2020, IA No. 67 of 2020 and IA No. 68 of 2020 are refused. The Resolution Plan having not found favour with this Authority an order for liquidation in terms of section 33 (1)(b) of the Code has to be passed.

- i. The Corporate Debtor shall be liquidated in the manner laid down in Chapter III of the Code. The present RP Mr. Sisir Kumar Appikarla is appointed as the Liquidator in terms of section 34(1) of the Code. His fees shall be regulated as per section 34(8) of the Code.
- ii. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor shall cease have effect and are vested in the Liquidator.



- iii. All personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- iv. Issue public announcement stating that Corporate Debtor is in liquidation.
- v. Send an extract of the order to the Registrar of Companies, Andhra Pradesh for necessary information.
- vi. Subject to sections 33(6) and 52 of the Code no suit or other legal proceeding shall be instituted by or against the Corporate Debtor.
- vii. The Liquidator, however, may institute any suit or other legal proceeding with the prior approval of this Authority.
- viii. The order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business as the Corporate Debtor is continued during the liquidation process by the Liquidator.



**MOHAMMED AJMAL**  
**(MEMBER JUDICIAL)**