

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **03.06.2024** THROUGH VIDEO CONFERENCING

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**PRESENT:** HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)  
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

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**IN THE MATTER OF** : IDBI Consortium & Sulzer India Pvt Ltd  
Vs  
Nagarjuna Oil Corporation Ltd

**MAIN PETITION NUMBER** : TCP/10/2017

**(IA/MA) APPLICATION NUMBERS**  
IA(IBC)/2236(CHE)2023; IA/746(CHE)/2022; IA/609(CHE)/2023

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**ORDER**

**IA(IBC)/2236(CHE)2023**

Present: Ld. Counsel Shri. Pankaj B Sharma for the Applicant

Ld. Counsel Shri. Satish for the Liquidator, who is also present  
in person.

This application has been filed seeking the following reliefs.

- i) *In view of Section 373, Section 279 of the Companies Act as well as the order dated 11.12.2018 passed by Hon'ble NCLT, Chennai Bench in Miscellaneous Application No. 289 / 2018 filed in TCP/10/IB/2017, the further proceedings of the present suit are stayed.*
- ii) *It is also directed that if the plaintiff is granted leave by the Tribunal to continue with the present suit, the present suit will be heard on production of the order of the Tribunal.*
- iii) *Since the proceedings in the present case are stayed, the case file be returned back to the Department / Registry and be shown in sine die category.*

In response to the application, it is stated that Nagarjuna Oil Corporation Ltd was ordered to be liquidated on 11.12.2018. The last date for submission of claim was 10.01.2019. The Applicant filed the claim belatedly on 10.04.2019. Part claim was admitted as per the actual invoice value. Interest was not admitted. The list of admitted claims was duly updated in the website. The Applicant has not challenged the partial acceptance of claim. It is stated that the civil suit filed vide No. 183/ 2013 is also in respect of the same claim which is partially admitted and not challenged, so the civil suit has become infructuous.

It is also stated that the scheme in relation to the company in liquidation under Section 230 of the Companies Act has been approved which is under implementation. No amount has been provided for the Operational Creditor in the scheme.

Ld. Counsel for the Applicant submits that the suit was filed prior to filing of the CIRP proceedings. The Applicant wants to pursue the suit in view of the provisions contained under Section 33(5) of IBC. Reference is made of the case: *Elecon Engineering Co Ltd. Vs Energo Engineering Projects Ltd (Neutral Citation No – 2022/DHC/003623)* decided by Hon'ble High Court of Delhi.

Applicant is directed to explain how the civil suit is maintainable when the claim has been filed and admitted by the Liquidator.

List the application for hearing on **12.07.2024**.

**IA/746(CHE)/2022**

Present: Ld. Counsel Shri. J Manivannan for the Applicant.

Ld. Counsel Shri. S Satish for the Respondent / Liquidator,  
who is also present in person.

This application has been filed seeking the following reliefs.

a) *To direct the Respondent – Liquidator to pay the arrears of rent in full accrued during the CIRP period to the tune of Rs. 1,93,26,041/- plus*

*applicable GST as part of CIRP cost and Rs. 1,39,57,697/- plus applicable GST as part of liquidation cost accrued during the liquidation period i.e., from the date of commencement of liquidation to the date of handing over of possession, aggregating to Rs. 3,32,83,739 plus applicable GST on a priority basis in accordance with the provisions of Section 53(1) (a) of the IBC, 2016 and other applicable provisions of IBC, 2016 to the Applicant herein and Co-owners on pro-rata basis.*

List the application for hearing on **12.07.2024**.

**IA/609(CHE)/2023**

Present: Ld. Sr. Counsel Shri. P H Arvinth Pandian along with Counsel Shri. Raj Jhabakh for the Scheme Proponent of Corporate Debtor in liquidation.

Ld. Sr. Counsel Shri. S Ravi for the Liquidator, who is also present in person.

Ld. Additional AAG Shri. Ramanlal for State of Tamil Nadu.

Ld. Counsel Shri. T Ravichandran for the Stakeholders.

Ld. Counsel Shri. Abishek Murthy for SIPCOT & TIDCO.

Ld. Counsel Shri. Mayan H Jain for erstwhile employees.

Ld. Sr. Counsel for the Scheme Proponent submits that the scheme proponent has not been served with the copy of the additional Reply filed vide Sr. No. 2640 dated 30.05.2024. He submits that the additional Reply which is supported with an affidavit is an important document which requires consideration at the level of the scheme proponent to take a decision and for discussions with the Government and the Stakeholders. Ld. Counsel seeks a time of about 90 days.

Ld. Sr Counsel Shri. S Ravi representing the Liquidator submits that in the order dated 09.01.2024, it was already recorded that the Respondent / State has stated that the payment of amount by Respondent No. 1 / Haldia Petrochemicals Limited to the Creditors may be delinked from the decision of the Government of Tamilnadu on the incentive package.

To this Ld. Sr Counsel Shri. Arvind Pandian submits that Ld. AAG vide proceedings dated 09.02.2024 had submitted that the Secretary alone cannot take a decision on the incentive package. It is the Cabinet of the State of Tamilnadu which has to take decision. The decision may take some time. Further Lok Sabha elections are expected in few months.

In the said proceedings, the efforts put by the Scheme Proponent were highlighted and it was submitted that this project which is first in the State of Tamilnadu would generate substantial employment opportunities and contribute to the economic development.

On the request of Ld. AAG, one month time was granted to the Secretary to file Affidavit. On 15.04.2024, Affidavit was filed by the Secretary wherein it was stated that the matter is under active consideration with the Government of Tamilnadu and it will be able to take decision within two or three weeks.

There is no denial of the fact that the scheme was approved by this Tribunal in the year 2021 allowing some reliefs and concessions and pursuant thereto part payment was made by the Scheme Proponent. Some expenditure was also incurred on the developments. Meetings were convened by the Liquidator with the Stakeholders where the Scheme Proponent also joined.

It is not the case that the Scheme Proponent is not interested to implement the scheme but for want of incentive package which the Scheme Proponent expects from the Government, Scheme implementation could not be carried out fully.

It is also true that the process of CIRP was initiated in the year 2017. There were many employees in the Corporate Debtor who have filed their claims and their claims have not been paid because of the Scheme not been fully implemented, as only part amount has been paid.

Having considered the facts in totality in the given circumstances, let the Scheme Proponent have a meeting with the Liquidator and the Stakeholders, to take a final decision. Liquidator is directed to convene the meeting on or before 15.07.2024 giving reasonable time to the Scheme Proponent.

List the application for outcome of the meeting / hearing on **08.08.2024** at 2.30 pm.

**Sd/-**

**(VENKATARAMAN SUBRAMANIAM)**  
MEMBER (TECHNICAL)

MG

**Sd/-**

**(SANJIV JAIN)**  
MEMBER (JUDICIAL)