

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

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **18.04.2024** THROUGH VIDEO CONFERENCE

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

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)/1875(CHE)2023

ORDER

Present: Ld. Counsel Ms. Sudhashana Sunder for the Applicant.

Vide separate order announced in open court, the application is disposed of with directions.

**-Sd-
[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)**

MG

**-Sd-
[SANJIV JAIN]
MEMBER (JUDICIAL)**

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

IA(IBC)/1875(CHE)/2023 in TCP/10/IB/2017
(Filed under Sec. 60(5) of the Insolvency & Bankruptcy Code, 2016)

In the matter of M/s. Nagarjuna Oil Corporation Limited

State Industries Promotion Corporation of Tamil Nadu
19-A, Rukmani Lakshmipathy Salai,
Egmore, Chennai – 600 008

... Applicant

-Versus-

1. V. Mahesh
Liquidator of
Nagarjuna Oil Corporation Limited
Now at 12/22, 2nd Floor, 7th Main Road,
R.A. Puram, Chennai – 600 028
2. Haldia Petrochemicals Limited
Tower 1, Bengal Eco Intelligent Park (Techna) Block EM,
Plot No.3, Sector V, Salt Lake, Kolkata – 700 091
3. State Bank of India
State Bank Bhavan, Madame Cama Road,
Nariman Point, Mumbai-400 021.
Having Stressed Asset Management Branch at:
No. 32, Montieth Road, Egmore, Chennai-600008.
4. IDBI Bank Limited
R/o. IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai 400 005.
5. Housing and Urban Development Corporation Limited
R/o Core-7A, HUDCO Bhawan,
India Habitat Centre, Lodhi Road,
New Delhi-110 003.

6. Punjab National Bank & e United Bank of India
H/o at Sector 10, Dwaraka,
New Delhi-110 075.
7. Life Insurance Corporation of India
"Yogakashema", Central Office, Jeevan Bima Marg,
Mumbai-400 021
8. Indian Bank - Stressed Asset Management Branch
& e Allahabad Bank II Floor, 55, Ethiraj Salai,
Egmore, Chennai 600 008.
9. Bank of India
R/o Star House, C-5, "G" Block,
Bandra Kurla Complex,
Bandra (East), Mumbai 400 051.
10. Canara Bank & e Syndicate Bank
H/o 112, J C Road, Bengaluru-560 002.
11. Central Bank of India
H/o Chander Mukhi, Nariman Point,
Mumbai-400 021.
12. Union Bank of India (e Corporation Bank)
H/o. 239, Ground Floor, Vidhan Bhavan Marg,
Nariman Point, Mumbai 400021.
Branch Address: SAM Branch, No. 38 & 39,
Whites Road, Royapettah,
Chennai - 600 014.
13. UCO Bank International Banking Branch,
No. 328, III Floor, Thambu Chetty Street,
Chennai 600 001.
14. Government of Tamil Nadu Represented by Principal Secretary,
Industries Department, Secretariat,
Fort St George, Chennai - 600 009.

15. Employees Provident Fund Organisation, India
H/o Bhavishya Nidhi Bhawan,
14, Bhikaiji Cama Place, New Delhi 110 066
16. Central Board of Direct Taxes
Aayakar Bhavan, Main Building,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.
17. Ministry of Finance Department of Revenue
Office of Assistant Commissioner Customs
Division No.60, Mohan Singh Street,
Cuddalore 607 003
18. Tamil Nadu Industrial Development Corporation Limited
19-A, Rukmani Lakshmipathy Salai
Egmore, Chennai - 600 008
19. Tamil Nadu Maritime Board
No. 171, South Kesavaperumalpuram,
Off Greenways Road, Raja Annamalaipuram,
Chennai- 600 028.
20. Registrar Of Companies
Block No.6, B Wing 2nd Floor, 26, Shastri Bhawan,
Haddows Road, Chennai 600 034.
21. Regional Director Office
5th Floor, Shastri Bhawan,
26 Haddows Road, Chennai-600 006.
22. Reserve Bank of India
16, Rajaji Salai, Fort Glacis,
Chennai 600 001

...Respondents

Present:

For Applicant : Rashid, AGM Legal

For Respondent : P.H. Arvind Pandian, Senior Advocate for R2
V. Mahesh, Liquidator

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on 18th April 2024

ORDER

(Heard through video conferencing)

IA(IBC)/1875(CHE)/2023 is an application filed by the Applicant viz. **State Industries Promotion Corporation of Tamil Nadu** under Section 60(5) of IBC, 2016 seeking relief as follows;

- a. *To modify the Scheme to incorporate the request of the Applicant to release the leased land of NOCL for the following projects (as described below) at free of cost for the following projects.*
 - i. *21.66 acres in the leased land of NOCL at Aruvamooku for the proposed scheme of Aruvamooku Canal project to be implemented by the District Collector, Cuddalore.*
 - ii. *An approximate extent of 8.00 acres of land identified in the lease land of NOCL which is to be handed over to SIPCOT at free of cost for the Proposed Desalination Plant.*
 - iii. *To lay pipelines on the boundary of the leased land of NOCL for the Water Supply Scheme of SIPCOT.*

- b. To modify the Scheme to incorporate the dues position of NOCL of Rs.2.02 crores as on 13.08.2021 towards maintenance charges from the year 2010 to 2017 pertaining to the leased land along with interest to be included in the auction sale and to remit the same to SIPCOT.*
- c. And to pass such other order/directions, as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case and thus render justice.*

2. The Applicant stated that it had allotted 1065.9 acres of land to the Corporate Debtor on 04.04.2008 at SIPCOT Industrial Park, Cuddalore for setting up a Petroleum Refinery Project. Further, it is stated that an extent of 581.38 acres of land was allotted to the Corporate Debtor on 10.06.2011 and as such the Corporate Debtor now holds total land to the extent of 2171.34 acres including the land purchased directly by them.

3. It is stated that NOC was issued on 04.12.2012 to mortgage the leasehold rights of 1065.96 acres and 581.38 acres of land was allotted to them which will have paripassu first charge to avail the financial facilities to the amount of Rs.3193.00 Crore from the Consortium of 16 banks. It is stated that the Applicant also accorded permission to the Corporate Debtor to sublease the SIPCOT allotted portion of 211.60 acres of land, out of the original allotment of 1065.96 acres to set up

Captive Power Plant, Crude Oil Tank Farm and Product Intermediate Tank, ET and Marketing Facilities through SP, subject to payment of license fee.

4. It is stated that the Applicant also accorded permission to the Corporate Debtor to sublease the SIPCOT allotted portion of 100.00 acres of land, out of the additional allotment of 581.38 acres to M/s. Port Oil Terminal Services Private Limited, an SPV to set up a Hydro Carbon Storage Facility for a period of 30 years, subject to payment of license fee. However, the Corporate Debtor has not remitted the payment and has also not executed the sublease with M/s. Port Oil Terminal Services Private Limited.

5. It is stated that one M/s. Sulzer India Private Limited filed a Company Petition under Section 433(e) r/w Sections 434(1)(a) and 439(1)(D) of the Companies Act, 1956, seeking for winding up of the Corporate Debtor, before the Hon'ble High Court of Madras. The said Petition was transferred to this Tribunal under the provisions of IBC, 2016 and renumbered as TCP/10/11B)/CB/2017 and thereafter the

Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor on 25.07.2017. Thereafter, this Tribunal has ordered for Liquidation of the Corporate Debtor.

6. It is stated that in the meantime, the applicant by letter dated 02.01.2019, cancelled the allotment of 1065.96 acres and 581.38 of land allotted to the Corporate Debtor at SIPCOT Industrial Complex, Cuddalore and directed the allottee / Corporate Debtor to execute the surrender deed within 15 days from the date of receipt of this order, falling which, SIPCOT will be constrained to resume the plot under TNPPE Act. It is stated that the cancellation order was communicated to the Liquidator and to all the financial institutions. The Hon'ble NCLAT, New Delhi issued stay for the operation of the cancellation of the Allotment Order dated 02.01.2019 and also prohibited the Applicant, District Police and the Collector to evict the Corporate Debtor without prior approval of NCLAT, New Delhi. However on request from the 1st Respondent, NCLAT extended the *status quo* from time to time and last of such extension is valid till 30.06.2023.

7. It is stated that one M/s. Haldia Petrochemicals Limited had submitted a detailed Scheme of Compromise Arrangement as per the provisions of Sections 230 of the Companies Act, 2013, read with IBC, 2016 and attendant Regulations framed thereunder, on 10.10.2019. After several rounds of tough negotiations, the bid price was finally agreed at Rs.600 Crores.

8. It is stated that the Applicant has issued NOC for the scheme of Arrangement submitted by the Liquidator which is under the Transfer of TAKEOVER to the successful bidder M/s. Haldia Petrochemicals Limited on 08.06.2020 (copy enclosed). In the letter dated 08.06.2020, SIPCOT has requested them to give an undertaking that there is "No Objection" for the use of leased land of NOCL (as described below) at free of cost for the following projects.

a. An extent of 21.66 acres in the leased land of NOCL at Aruvamooku for the proposed scheme of Aruvamooku Canal project to be Implemented by the District Collector, Cuddalore.

b. An approximate extent of 8.00 acres of land identified in the lease land of NOCL which is to be handed over to SIPCOT at free of cost for the Proposed Desalination Plant.

c. To lay pipelines on the boundary of leased land of NOCL for the Water Supply Scheme of SIPCOT.

9. It is stated that the Applicant had also informed the 1st Respondent, on 06.10.2021 about the dues position of the Corporate Debtor of Rs.2.02 Crore as on 13.08.2021 towards maintenance charges from the year 2010 to 2017 along with interest and requested to include the same in the auction sale and to remit the same to SIPCOT.

10. It is stated that the final scheme was approval by this Tribunal on 18.03.2021 in CP/546/CA/2020, dismissing all the Objections of the Scheme in relation to the Company (NOCL) under Section 230 of the Companies Act, 2013, read with attendant provisions of IBC, 2016. However, the 2nd Respondent kept delaying the 2nd and 3rd stage payment. It is stated that the Government of Tamil Nadu is yet to execute necessary agreement with 2nd Respondent extending the competitive fiscal Incentives as per the State Industrial Policy and also other relief, concession and support sought by them since the scheme has not incorporated request of the Applicant to the 2nd Respondent to release leased land of NOCL for the following projects.

- a. 21.66 acres in the leased land of NOCL at Aruvamooku for the proposed scheme of Aruvamooku Canal project to be implemented by the District Collector, Cuddalore.
- b. An approximate extent of 8.00 acres of land identified in the lease land of NOCL, which is to be handed over to SIPCOT at free of cost for the Proposed Desalination Plant.
- c. To lay pipelines on the boundary of leased land of NOCL for the Water Supply Scheme of SIPCOT.

11. Hence the present application has been filed by the Applicant to release the leased land of NOCL for the above project.

12. Heard the submissions made by the Learned Counsel for both the parties.

13. The Liquidator has filed a memo dated 11.03.2024 wherein it is stated that the Liquidator has no objection to the relief as sought in prayer (a) (i),(ii) & (iii) but is agreeable only to the extent of granting Right of way / passage or use of the lands and not acquisition of the lands by SIPCOT. In so far as relief (b) is concerned, it is stated by the

Liquidator that the same is strictly governed by the waterfall mechanism enshrined under Section 53 of IBC, 2016.

14. During the hearing held on 01.03.2024, the Learned Senior Counsel for the 2nd Respondent also made a similar submission as to giving of no objection.

15. Thus by taking into consideration the facts and circumstances of the present case, we issue the directions as follows;

- (i) The Liquidator is directed to grant Right of way / passage for the use of land by the Applicant / SIPCOT for the following purpose:-
 - a. 21.66 acres in the leased land of NOCL at Aruvamooku for the proposed scheme of Aruvamooku Canal project to be implemented by the District Collector, Cuddalore.
 - b. An approximate extent of 8.00 acres of land identified in the lease land of NOCL, which is to be handed over to SIPCOT at free of cost for the Proposed Desalination Plant.
 - c. To lay pipelines on the boundary of leased land of NOCL for the Water Supply Scheme of SIPCOT.

16. It is made clear that this Tribunal is granting only Right of way / passage to the Applicant / SIPCOT, however the Corporate Debtor will continue to hold the Leasehold rights over the aforesaid land.

17. In relation to prayer (b), it is made clear that the payments which are required to be made to the Applicant as per the Scheme approved by this Tribunal under Section 230 of the Companies Act, 2013, will be paid by the Liquidator in accordance with Section 53 of IBC, 2016.

18. With the above said directions, this IA(IBC)/1875(CHE)/2023 stands **disposed of**.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond