

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI
CP (IBC) / 166 (CHE) /2023**

(Filed under Section 59 of the Insolvency and Bankruptcy Code, 2016)

In the matter of **TRICHY POWER LIMITED**

Mr. Viswanathan Rajagopalan

(IBBI/IPA-003/ICAI-N-00275/2020-21/13069)

Liquidator of M/s. Trichy Power Limited (*In Voluntary Liquidation*),

Plot No. 4, 1/787A, Deivanai Nagar II Street,

Madipakkam, Chennai, Tamil Nadu – 600 091

... *Petitioner*

CORAM

SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Petitioner: Mr. R. Viswanathan, Liquidator

Order Pronounced on 4th July 2024

ORDER

(Hearing Conducted through Virtual Conference)

1. This is a Company Petition filed by the Liquidator conducting the Voluntary Liquidation of *M/s. Trichy Power Limited, an unlisted Public Company limited by shares* with CIN: U74999TN1997PLC038548, having registered office at No.4, Old No.16, 2nd floor, Pattabiraman Street, Chennai, Tamil Nadu – 600 079 within the RoC, Chennai, under Section 59 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC, 2016”), seeking dissolution of the Company.

2. The Petitioner Company was originally incorporated on 02.07.1997 as *Tenaga B.K. Power (Thuvakudi) Limited* and subsequently changed into *Trichy Power Limited* on 13.01.1999 under the provisions of the Companies Act, 1956. The main object of the Company is to generate, harness, develop, accumulate, distribute and supply electricity by setting up thermal power plants by use of liquid, gaseous or solid fuels for the purpose of light, heat, motive power and for all other purpose for which electric energy can be employed. The elaborate details of the main objects are set out in the Memorandum of Association which is filed along with the typed set.

3. The Authorized share capital of the Company is Rs.50,00,000/- (Rupees Fifty lakhs only) divided into 5,00,000 shares of Rs.10/- each and the Issued Paid Up capital is Rs.10,07,000/- (Rupees Ten lakh seven thousand only) divided into 1,00,700 shares of Rs.10/- each.

4. We have heard the submissions made by the Learned Counsel for the Petitioner and perused the records.

5. It is stated that the company never commenced its commercial operations and business due to non-viability of resources planned for the Business. Hence, a Board meeting was held to consider winding up and voluntary liquidation of the Company as per the Section 59 of the Insolvency and Bankruptcy Code, 2016 and passed the same as a resolution on 05.12.2022, wherein another Board Resolution was passed to conduct the Extraordinary General Body Meeting on 13.12.2022.

6. The Extraordinary General Meeting of the company scheduled on 19.01.2023, has been adjourned to 02.02.2023 for want of quorum. The Adjourned Extraordinary General Meeting of the Shareholders of the Company took place on 02.02.2023 wherein it was unanimously resolved in accordance with the Sec 103 (3) of the Companies Act, 2013, to appoint the Petitioner herein to act as a liquidator for conducting voluntary liquidation process in relation to the Company under Section 59 of IBC, 2016.

7. The Petitioner has submitted the *undated Preliminary Report and Asset Memorandum* in respect of the Liquidation Process at *Page 174 of the Petition* where he has stated that sum of Rs.7,00,000/- which was lying in the bank account would be realized and credited into Liquidation Current account opened with Canara Bank, Villivakkam Branch, Chennai having IFSC :CNRB0000918. Further it is stated that, the shareholders agreed not to distribute the amount so realized and would be utilized for Liquidation Expenses.

8. The *Audited Liquidators statement of Accounts in respect of Liquidation Process issued by VRU & Co, Chartered Accountants dated 14.09.2023 at Page 188 of the Petition* had also disclosed the existence of Liquidation account maintained with Canara Bank. The same is extracted hereunder,

**Liquidators Statement of Accounts of the Winding up
(Members' Voluntary Winding up)**

Name of the Company	TRICHY POWER LIMITED
CIN	U74999TN1997PLC038548
Nature of proceeding	Members Voluntary Liquidation
Date of Commencement of Liquidation	19 th January 2023
Name of the Liquidator	Viswanathan Rajagopalan
IBBI Registration Number	003/ACAI-N-00275/2020-2021/13069

- a) Audited accounts of the liquidation, showing receipts and payments pertaining to liquidation since the liquidation commencement date; and

Statement showing how the winding up has been conducted and the property of the company has been disposed off.

Particulars	Amount	Amount
Income		
Opening Balance		5,000
Transfer from Closure of Current Account		75,000
Total Receipts		80,000
Expense		
Shareholder Settlement		
Shareholders Account		
Professional fees		
Professional fees for Liquidator	37,500	
Professional fees for Lawyer.	3,000	
Professional Fees to Chartered Accountant for Report	5,000	45,500
Other Expenses		
Secretarial services	1,000	
Travel, Postage and Other Expenses	33,000	
Canara Bank Liquidation Account Bank Charges	500	34,500
Total Expenses		80,000



Old No. 36, New No. 56, 53rd Street, 9th Avenue, Ashok Nagar, Chennai - 600 083

9. The Petitioner has submitted the Final Report dated 20.07.2023 and Form-H dated 30.08.2023.

10. It was submitted that the Petitioner herein has conducted the Voluntary Liquidation process in respect of the Company in Liquidation in accordance with the IBBI (Voluntary Liquidation Process) Regulations, 2017.

11. The subject matter petition was reserved for Final orders on 28.11.2023. On perusal of Pleadings, Annexures and Form H, certain discrepancies has been observed in the Process conducted by the Petitioner. In Form H, the Details of Liquidation Account discusses only about Indian Bank Account bearing No. 7485049931, maintained with EA Puram branch, Chennai. There is no information about Liquidation Current Account which was disclosed in Asset Memorandum and Audited Receipts and Payments which deals with Realization of Rs.7,00,000/-. Even in Realization and distribution tables detailed in the Form H no reference to the said amount is made out.

12. Further the Audited Balance sheets of the company for the FY 2021 and 2022, which were annexed to the petition shows that the Reserves of the Company to a tune of Rs.10,07,000/- (Rupees Ten lakh and seven thousand only) which is formed out of Payments paid by the shareholders for Shares issued. There were 8 shareholders out of which 99.99% shareholding held by REMACO, Malaysia. The Financial Notes to the Balance sheet for the FY 2021 shows that the Reserves of the Company has been depleted long back and company has no assets.

13. The matter was again listed on 10.01.2024 and during the hearing this Tribunal questioned issues existing and non-availability of the following records to the Ld. Liquidator,

i. Original Solvency Declaration from majority directors

- ii. *Details relating to Liquidation Bank Accounts maintained with Indian Bank, Canara Bank and their Account Closure certificate*
- iii. *Proof of Intimation of final report to RoC and IBBI*
- iv. *Details of Claims and List of Stakeholders*
- v. *Legible Audited Balance Sheets*

and directed him to comply with all the regulatory and statutory requirements as per the IBC, 2016 and IBBI (Voluntary Liquidation Process) Regulations 2017.

14. The Petitioner vide memo dated 24.01.2024 clarified the queries of this Tribunal in Partial. The Petitioner has failed to produce Proper Affidavit verifying declaration of solvency from majority of the Directors. The query in respect of Liquidation Account maintained with Canara Bank has not at all been discussed. Thus this Tribunal once again directed the Petitioner to comply with all the requirements as per the law.

15. Again Petitioner vide memo dated 20.05.2024 submitted the Declaration of Solvency from majority of the Directors verified by a supporting affidavit. The Affidavit concurring the declaration of Solvency was notarized in Kuala Lumpur, Malaysia by a Notary Public. Further the receipts and payments of the Liquidation process which was audited afresh by *R.S Hariharan & Associates, Chartered Accountants* were also submitted. The Audited receipts and payments is extracted hereunder,

Cer No: RSH/2024-25/069

Date: 20-05-2024

UDIN: 24014696BKAIBV3985

LIQUIDATORS Statement Of Accounts Of The Winding Up
(Members' Voluntary Winding up)

Name Of the Company	TRICHY POWER LIMITED
CIN	U74999TN1997PLC038548
Nature of proceeding	Members Voluntary Liquidation
Date of Commencement of Liquidation	19 th January 2023 (In Liquidation)
Name of Liquidator	Viswanathan Rajagopalan
IBBI Registration Number	003/ICAI-N-00275/2020-2021/13069

- a) Audited accounts of the liquidation, as on 31-08-2023 showing receipts and payment pertaining to liquidation and as per the Indian Bank Liquidation Account No:7485049931 which is as below:

Particular	Amount	Amount (Rs)
Receipts		
Opening Balance		5000
Transfer from Closure of current account		75,000
Total Receipts		80,000
Payment		
Shareholder Settlement		
Shareholder Account		
Professional Fees		
Professional Fees for Liquidator		37,500
Professional Fees for Audit Certificate		5,000
Other Expenses		
Professional Fees For Legal and Secretarial	36,426	
Indian Bank Liquidation Account, Bank charges	1,074	
Total Expenses		37,500
		80,000
Surplus/Deficit		Nil

16. It was submitted by the Learned Liquidator no claims were received during the liquidation process. Further, it was submitted that from the books of accounts only the shareholders are entitled for distribution. The List of stakeholders is as follows,

TRICHY POWER LIMITED
C/o. Mr. Shiv Shankar Shahu ,
Chartered Accountant
No. 4 (Old No. 16),
Pattabiraman Street, 2nd Floor
Chennai -Tamil Nadu -INDIA -600079

Email: Id_saidaza@tnb.com.my
Cin: U74999TN1997PLC038548

LIST OF SHARE HOLDERS AS ON 31-03-2022					
Ledger Folio Number	NAME OF THE SHARE HOLDERS	Date of Become Member	No of Equity Shares Held	Rate	Amount in Rs.
8	DR. ARUL NATRAJAN S/o Dr Avvai D. Natarajan J-82, Anna Nagar East, Chennai-600 0102	20-11-1998	2	10	20
9	AL. NATRAJAN S/o Alagaperumal, 114, Highways Colony, Trichy - 20.	20-11-1998	2	10	20
10	T. BALAMURUGAN S/o V. Dhanuskodi, 108, New Avadi Road, Kilpauk, Chennai - 600 040.	20-11-1998	2	10	20
11	D. SARAVANAN S/o V. Dhanuskodi, AP-721, 4th Street, 12th Main Road, Anna Nagar, Chennai - 600 040	20-11-1998	1	10	10
12	T. BALAJI S/o V. Dhanuskodi, H-12, Bharatidasan Colony, Aahok Nagar, Chennai.	20-11-1998	1	10	10
13	R. BANUMATHI D/o Rathnavel, 108, New Avadi Road, Kilpauk, Chennai - 600 040.	20-11-1998	1	10	10
14	SCUMATHI D/o S. Sundarraj, AP-721, 4th Street, 12th Main Road, Anna Nagar, Chennai - 600 040.	20-11-1998	1	10	10
15	REMACO Level 23A, PJX-HM Shah Tower, No.16A, Persiaran 46050 Petaling Jaya, Selangor Darul Ehsan.	30-03-2000	100690	10	1006900
MALAYSIA					
Total			100700		1007000

TRICHY POWER LIMITED

17. Further from Form H and Distribution table, only the Liquidation expenses and related cost has been settled to a tune of Rs.80,000/- and nothing available for further distribution. Thus no distribution took place towards the Stakeholders. The distribution table is extracted hereunder,

4. Details of distribution to stakeholders as per Section 52 or 53 of the Code:

S. No.	Stakeholders under Sec.52 and 53(1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Realization of security interest [Sec.52(1)(b)]	NIL	NIL	NIL	NIL	NIL
2.	Liquidation Cost [Sec.53(1)(a)]	80,000	80,000	80,000	100%	NIL
3.	Workmen dues [Sec.53(1)(b)(i)]	NIL	NIL	NIL	NIL	NIL
4.	Debts of Secured Creditors [Sec.53(1)(b)(ii)]	NIL	NIL	NIL	NIL	NIL
5.	Wages and unpaid due to Employees [Sec.53(1)(c)]	NIL	NIL	NIL	NIL	NIL
6.	Debts of Un Secured Financial Creditors [Sec.53(1)(d)]	NIL	NIL	NIL	NIL	NIL
7.	Government dues + Amount unpaid following Enforcement	NIL	NIL	NIL	NIL	NIL

	of Security Interest [Sec.53(1)(e)]					
8.	Any remaining Debts and Dues [Sec.53(1)(f)]	NIL	NIL	NIL	NIL	NIL
9.	Preference Shareholders [Sec.53(1)(g)]	NIL	NIL	NIL	NIL	NIL
10.	Equity Shareholders [Sec.53(1)(h)]	NIL	NIL	NIL	NIL	NIL
	Total	80,000	80,000	80,000	100%	

*If there are sub-categories in a category, please add rows for each sub-category.

18. The details of the relevant compliances as mandated under Section 59 of the IBC, 2016 read with the IBBI (Voluntary Liquidation Process) Regulations, 2017 are listed hereunder:-

S. NO	COMPLIANCE	AVERMENTS	PAGE NO
1	Sec. 59 (3)	Board Meeting approving voluntary liquidation dated 05.12.2022 and notice for Extraordinary general meeting dated 11.01.2023	98 - 101
2	Sec. 59 (3) (b) (i)	Audited Financial statements for the years 2020 - 21 and 2021 - 22.	117 - 162
3	Sec 59 (3) (c) and Reg 3(1)(c)	EGM dated 02.02.2023 approving the voluntary liquidation	100 - 101
4	Section 59 (4) and Reg 3 (2)	Declaration of solvency filed with ROC in Form GNL-2 dated	5 - 7 of the memo dated 20.05.2024
5	Section 59 (4) and Reg 3	Intimating Board Resolution and Special Resolution for voluntary liquidation passed by shareholders in EGM vide Form MGT-14 dated 06.02.2023.	110 - 115
6	Regulation 14	Form-A Public Announcement in Trinity Mirror (English) dated and Makkal Kural (Tamil) and IBBI website dated 03.02.2023.	103 - 106
7	Section 178 of IT Act, 1961	Intimation of Voluntary Liquidation process to the Income Tax Department dated 08.03.2023	165 - 166
8	Reg 9	Preliminary report	175 - 185
9	Reg 34	Closure of Liquidation Bank Account of Indian Bank	17 of the Memo dated 24.01.2024
10	Reg 38	Filing Final report dated 27.08.2023	190 -195
13	Reg 38	Form-H - Compliance certificate dated 30.08.2023	199 - 208

19. Thus, on examining the submissions made by the Learned Liquidator and after perusing the Documents and Annexures, We find certain discrepancies are still open and remain unaddressed.

20. The Reserves of the Company were depleted and company was in loss since 2020 as per the available records. In such a situation, the directors have submitted their declaration and an affidavit assuring that the company is

solvent, which is not true. Further sum of Rs.80,000/- which is shown as realized from Bank Balances and equivalents is not clear and information connected thereon is found insufficient.

21. Even after giving sufficient opportunities twice, the liquidator has failed to explain the issues in respect of the Liquidation Current Account maintained with Canara Bank, Villivakkam Branch and the connected Realizable sum of Rs.7,00,000/-.

22. In such circumstances, this tribunal takes a view not to order Dissolution of the subject company unless existing issues are addressed and rectified.

23. Accordingly, *CP(IBC)/166/2023 is dismissed* with cost of Rs.10,000/- and liberty to approach this tribunal afresh rectifying all discrepancies highlighted and satisfying all compliances mandated under Sec 59 of IBC, 2016 and IBBI (Voluntary Liquidation Regulations), 2017.

-Sd/-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd/-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)