



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

18. Interlocutory Application(IBC)(Liq.)/69/2024 in C.P. (IB)/344(MB)2023

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 28.08.2024**

**NAME OF THE PARTIES: - Renascence Insolvency Resolution
Professionals Private Limited
(Resolution Professional of Kesma Impex
Private Limited)
Through Authorised Signatory
Mr. Rajkumar Shamlal Jaiswal
IN THE MATTER OF
Bank of India**

V/s

Kesma Impex Pvt Ltd

**Section: - Sec 33(1) (b) (i) to (iii) r/w Sec 33(3) U/s 7 of the Insolvency and
Bankruptcy Code, 2016**

ORDER

Interlocutory Application(IBC)(Liq.)/69/2024

Presence: -

Adv. Nishitha Nambiar (VC) ... for Applicant/Resolution Professional

Heard, Counsel for the Applicant for a considerable time. Detail orders will
follow vide separate sheet.

Sd/-

ANIL RAJ CHELLAN
Member (Technical)

--NAVNATH--

Sd/-

KULDIP KUMAR KAREER
Member (Judicial)



IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II

Interlocutory Application (IBC) (Liq.) 69/2024

In
CP(IB)No. 344/MB/2023

*Application filed under section 33(1) of Insolvency
and Bankruptcy Code, 2016*

**Renascene Insolvency Resolution Professionals
Private Limited,**

(RP of Kesma Impex Private Limited)

Through Authorised Signatory

Mr. Rajkumar Shamlal Jaiswal

...Applicant

In the matter of

Bank of India

...Financial Creditor

V/s

Kesma Impex Private Limited

...Corporate Debtor

Order delivered on: 28.08.2024

Coram:

Anil Raj Chellan

Kuldip Kumar Kareer

Member Technical

Member Judicial

Appearances:

For the Applicant/RP (Through VC)

: Adv. Nishitha Nambiar



ORDER

Per: Coram

1. This is an application filed u/s 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (“the Code”) by Renascence Insolvency Resolution Professionals Private Limited, Resolution Professional (RP) of Kesma Impex Private Limited (“the Corporate Debtor”) seeking liquidation order based on the resolution passed by the Committee of Creditors (CoC) in its 6th meeting held on 30.05.2024.
2. On perusal of this application, it emerges that Company Petition (IB) No. 344 of 2023 u/s Section 7 of the IBC Code, 2016 was admitted by this Tribunal, and Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor on 12.09.2023 and the Applicant herein was appointed as Interim Resolution Professional (IRP). The IRP published Form A issuing public announcement on 14 September 2023 in Free Press Journal (English Newspaper) and Navakal (Marathi Newspaper) Mumbai edition inviting claims from the Creditors of the Corporate Debtor. Subsequent to filing of claims, Coc was constituted.
3. The Applicant convened the 1st CoC meeting on 12th October 2023, where the Applicant updated the CoC on the developments in the CIRP and informed them of his appointment as the authorized signatory on behalf of Renascence Insolvency Resolution Professionals Private Limited. The Applicant also mentioned that he had requested documents and information from the Directors of the Corporate Debtor, but these have not yet been received. Additionally, the Applicant highlighted the need to raise interim finance for running the CIRP of the Corporate Debtor.
4. The Applicant submits that during the 2nd CoC meeting on 8th November 2023, he informed the members about the appointment of RIRPPL as the Resolution Professional and noted that IndusInd Bank intended to withdraw its claim on the grounds of being an unsecured



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creditor. The Applicant also informed the members that no claims had been received from workmen, employees, operational creditors, or statutory authorities in the matter. The CoC was asked to deposit INR 3,00,000 in a new bank account for the Corporate Debtor.

5. The Applicant submits that during the 3rd CoC meeting on 8th December 2023, it was reported that a new account had been opened, and an application under Section 19(2) was filed against the suspended Board for non-cooperation. The Applicant further informed that no Expression of Interest documents had been received and that Form G was not uploaded on the IBBI portal due to technical issues; therefore, the Applicant proposed publishing a fresh Form G.
6. In the 4th CoC meeting on 2nd February 2024, it was disclosed that Bajaj Finance's claim was admitted and, after due verification, became part of the CoC. The Applicant submits that fresh Form G was published on 14th December 2023 in the Free Press Journal (English) and Navakal (Mumbai edition) (Marathi). This led to receipt of four expressions of interest, and the CoC approved the issuance of the RFRP and Evaluation Matrix to prospective applicants.
7. At the 5th CoC meeting on 27th February 2024, updates on the CIRP process were provided. The Applicant also informed the members that the RFRP, EM, and Information Memorandum were issued to the PRAs on 13th February 2024, with the last date for submission of Resolution Plans set for 14th March 2024. The Applicant further informed that the CIRP of the Corporate Debtor was set to end on 10th March 2024; therefore, the CoC, with 88.64% approval, decided to seek extension of the CIRP period by 90 days, which the Tribunal approved on 21st March 2024.
8. The Applicant submits that during the 6th CoC meeting on 30th May 2024, it was noted that no Resolution Plans were received by the deadline. Since the Corporate Debtor was not operating as a going concern, the CoC resolved to liquidate it under Section 33 of IBC Code,



2016. The Applicant also informed the members that the Corporate Debtor is not operating as a going concern and has no operating cash flows or liquid assets to cover the liquidation costs.

9. Further, as per Regulation 31-B Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2024 the Applicant got approval of CIRP costs of INR 11,73,642 incurred till May 2024.
10. We have considered the arguments presented by the learned Counsel for the Applicant and thoroughly perused the material available on record. It was noted that the Company is not functioning as a going concern and does not possess any liquid assets. Additionally, despite extending the deadline for submitting a Final Resolution Plan, no plan was received. As a result, the Applicant was unable to proceed with the Corporate Insolvency Resolution Process (CIRP). In light of these circumstances, and in accordance with the unanimous decision of the Committee of Creditors (CoC), the CoC opted for the liquidation of the Corporate Debtor.
11. The extract of the relevant resolution by the CoC in its 6th Meeting held on 30.05.2024. is reproduced herein below:

“RESOLVED THAT the consent of the members of Committee of Creditors be and is hereby accorded for Liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016.

“RESOLVED FURTHER THAT the consent of members be and is hereby accorded to appoint Mr. Rajkumar Shamlal Jaiswal Authorised Signatory of M/s Renaissance Insolvency Resolution Professionals Private Limited, IPE as IP (IBBI Registration No. IBBI/IPE-0093/IPA-1/2022- 23/50034) as the Liquidator of the Company and be paid a lump sum fee of INR 3 Lakhs plus applicable taxes.”



“RESOLVED FURTHER THAT Mr. Rajkumar Shamlal Jaiswal, Authorised Signatory of M/s Renascence Insolvency Resolution Professionals Private Limited, IPE as IP be and is hereby authorized to make necessary application for Liquidation of the Corporate Debtor under section 33 of the Insolvency and Bankruptcy Code, 2016 and for the appointment of liquidator in the matter of Kesma Impex Private Limited and to do all such acts and deeds and things to give effect to the aforesaid resolution.”

12. In view of the above discussions and findings, this Bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down under the Insolvency & Bankruptcy Code, 2016. Hence, we pass the following orders:

ORDER

- a. The Mr. Rajkumar Shamlal Jaiswal, holding Registration No. IBBI/IPE-0093/IPA-1/2022-23/50034 is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai, and to the Insolvency and Bankruptcy Board of India; The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- c. This order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- d. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016, and in accordance with the relevant rules and regulations.
- e. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- f. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including



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initiation of steps for recovery of dues of the Corporate Debtor, if any, as per law.

g. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;

h. Copy of this order be sent to the financial creditors, corporate debtor, and the Liquidator for taking necessary steps.

13. The IA-69/2024 filed by the RP for Liquidation of the Corporate Debtor stands **allowed** accordingly in aforesaid terms.

Sd/-

ANIL RAJ CHELLAN
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)