

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT II

Item No. 3

IA 378/2023

In

C.P. (IB)-447(MB)/2018

CORAM

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **25.03.2025**

NAME OF THE PARTIES: **IA 378/2023 Prashant Bhatia**
 IN THE MATTER OF
 European Projects & Aviation Ltd.
 V/s
 Infolink Solutions Pvt. Ltd

Appearance:

For Applicant : Adv. Aniruth

For Respondent : None

IBC Under Section 54(1), 9 of (IBC)

ORDER

The matter is taken up for pronouncement of order in respect of **IA 378/2023**.
Order pronounced vide separate sheet. **IA 378/2023** is **allowed and disposed of**.

Sd/-
ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

//Supriya//

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)

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

I.A. No. 378 of 2023

IN

CP (IB) No. 447/MB/2018

[Under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45(3)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.]

In the matter of:

Prashant Bhatia, Liquidator of the Corporate Debtor, A-561, Sarita Vihar, New Delhi-110076.

..... Applicant/Liquidator

In the matter between:

European Projects & Aviation Limited

..... Operational Creditor

Versus

Infolink Solutions Private Limited

.....Corporate Debtor

Pronounced :- 25.03.2025.

CORAM:

**SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (TECHNICAL)**

**SHRI K.R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)**

Appearances: Hybrid)

For the Liquidator : Adv. Aniruth Purusothaman.

ORDER

PER: CORAM.

1. This is an Application filed by the Liquidator under Section 54 of the Insolvency and Bankruptcy Code, 2016 (IBC/Code) read with Regulation 45(3)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations) for dissolution of the Corporate Debtor (CD), viz., Infolink Solutions Private Limited.
2. The CD was primarily engaged in the business of trading in telecommunication equipment. The Authorised Share Capital of the CD is Rs.50,00,000/- (Fifty Lakh Rupees) and the Paid-Up Capital of the Corporate Debtor is Rs.5,61,500/- (Five Lakh, Sixty-One Thousand and Five Hundred Rupees). On 06.03.2019, the CD was admitted into the Corporate Insolvency Resolution Process (CIRP) under Section 9 of the Code on an application filed by the Operational Creditor. Thus, the Insolvency Commencement Date is 06.03.2019.
3. The CD was liquidated pursuant to the resolution passed by the Committee of Creditors (CoC) in its 3rd Meeting held on 20.06.2019 on the ground that after publication of Form 'G', no Expression of Interest (EoI) was received by the Resolution Professional (RP) until the last date for submitting the EoI.
4. The Applicant was appointed as the Interim Resolution Professional of the CD, who was later confirmed as the RP by the CoC. The CoC resolved in its 03rd Meeting held on 20.06.2019 to appoint the Applicant as the Liquidator. Accordingly, the Applicant filed M.A. No. 2465 of 2019, before this Tribunal seeking liquidation of the CD. This Bench initiated liquidation process in respect of the CD, *vide* Order dated 09.11.2020, and appointed the Applicant herein as the Liquidator of the CD. Thus, the Liquidation Commencement Date is 09.11.2020.

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5. The Applicant issued Public Announcement in the prescribed Form B under Regulation 12 of the Liquidation Process Regulations for inviting claims from the stakeholders of the CD along with the proof of claim. The Applicant opened a Liquidation Account with Axis Bank bearing Account No. 920020070925691 in the name of '**Infolink Solutions Private Limited-in Liquidation**' on 01.12.2020. The Applicant filed the List of Stakeholders along with Preliminary Report under Regulation 13 of the Liquidation Process Regulations and the Asset Memorandum as per Regulation 34 of the Liquidation Process Regulations on 20.01.2021 before this Bench. The Applicant has also filed Asset Sale Report in respect of sale of the assets of the CD.
6. Thereafter, the Applicant/Liquidator filed the Quarterly Progress Reports from time to time before this Bench. The last such Progress Report i.e., 9th Progress Report dated 06.01.2023 for the quarter ending on 31.12.2022, was filed by the Applicant was taken on record by this Tribunal in I.A. No. 143 of 2023. The Applicant had also moved applications from time to time for exclusion of period in order to extend the timeline to complete the liquidation process of the CD. Last such application was moved by the Applicant *vide* I.A. No. 324/2023, wherein this Tribunal by Order dated 27.01.2023, was pleased to grant extension of 60 days with effect from 10.12.2022, as a result of which the liquidation process of the CD was extended till 08.02.2023. The Application was filed on 28.01.2023, and therefore, it is held to be filed within the period allowed by the Tribunal for completion of liquidation process.
7. The Applicant has stated that final distributions of funds were carried out on 27.01.2022; 02.08.2022; 06.10.2022; and 12.12.2022, from the Liquidation Bank Account in the liquidation process of the CD. The Applicant further stated that in the absence of possibilities for any further realisation from the debtors, the Liquidator got the liquidation account closed and audited. The Applicant states that the CD held bank accounts with Canara Bank (erstwhile Syndicate Bank) at Mumbai and HDFC Bank and Axis Bank at New Delhi, during the liquidation process. As a part of the liquidation process, all bank accounts of the CD, including

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the liquidation account have now been closed. The Applicant has annexed bank account closure confirmation letters at Exhibit 'X Colly'. The details of the closed accounts are as under:

<u>Sr. No.</u>	<u>Name of Bank and Account Number</u>	<u>Account closed on</u>
1.	Canara Bank (erstwhile Syndicate Bank) (Account No. 50001010008410)	22.02.2021
2.	HDFC Bank (Account No. 50200021365803)	31.12.2020
3.	Axis Bank (Account No. 920020070925691)	16.12.2022

8. The Audited Cumulative Receipt and Payment Account for the period from 13.11.2020 to 16.12.2020, showing realisation and distribution of assets, is reproduced hereinbelow:

<u>Receipts</u>	<u>Amount (Rs.)</u>	<u>Amount (Rs.)</u>	<u>Payments</u>	<u>Amount (Rs.)</u>	<u>Amount (Rs.)</u>
I. Opening Balance		2,70,287.53	I. Liquidation Costs:	18,900.00	
a) Bank Balance in Liquidation Account			a) Public Announcement	14,282.80	
			b) Bank Charges	23,567.65	
			c) Out of Pocket Expenses of Liquidator	19,539.00	
			d) Demat Account Charges	8,000.00	
			e) Audit Expenses	<u>200,000.00</u>	2,84,289.45

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			f) Fees of Liquidator		
II. Receipts from realisation of assets: a) Proceeds from sale of securities b) Receivables: (i) Venerate Trading Pvt. Ltd. (ii) Spruce Trading Pvt. Ltd. (iii) Network Telelink Pvt. Ltd.	58,224.01 16,334.10 203.82 <u>2,759</u>	77,520.93	II. CIRP Costs: a) European Projects & Aviation Ltd. b) Resolution Professional	33,140.44 <u>68,019.57</u>	1,01,160.01
III. Miscellaneous Receipts: a. Receipts in Canara Bank Account b. Refund of TDS	30,867.00 5,625.00 <u>1,149.00</u>	37,641.00	III. Closing Balance: a. Bank balance in liquidation account.		NIL

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c. Cash in hand deposited					
Total		3,85,449.46/-	Total		3,85,449.46/-

9. The summary of claims submitted, claims admitted, claims paid and the names of the stakeholders in the liquidation process of the CD have been given in the Table below:

Sr. No.	Name of Claimant	Claim Submitted (in Rs.)	Claim Admitted (in Rs.)	Amount Paid	% of Amt Paid to Amt Admitted	Type of Creditor
1.	European Projects & Aviation Limited	4,50,000	4,50,000	33,140.44/-	7.36%	CIRP Cost
2.	Resolution Professional	9,23,832	9,23,832	68,019.57/-	7.36%	CIRP Cost
3.	Liquidation Costs	-	-	2,84,289.45	-	Liquidation Cost
4.	State Tax Officer (Mum-VAT-C-710)	5,58,28,628	5,58,28,628	Nil	0%	Operational Creditor

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5.	State Tax Officer (Mum-VAT-C-920)	6,68,039	6,68,039	Nil	0%	Operational Creditor
6.	GTL Limited	19,14,31,523	19,14,31,523	Nil	0%	Operational Creditor
7.	GTL Infrastructure Limited	129,43,70,713	129,43,70,713	Nil	0%	Operational Creditor
8.	Acasia Teleservices Private Limited	2,78,001	2,78,001	Nil	0%	Operational Creditor
9.	European Projects & Aviation Limited	80,45,364	78,29,364.56	Nil	0%	Operational Creditor
	TOTAL	155,19,96,100	155,17,80,100.56	3,85,449.46	0.025%	

10. As per the Final Report dated 06.01.2023, the actual liquidation cost amounts to Rs.4,79,758/-. However, as seen from the above Table set out in the foregoing paragraph, we find that the amount available for distribution was insufficient to even meet the liquidation and CIRP costs under Section 53(1)(a) of the IBC. Hence, no distribution could be made to the stakeholders. We observe that in the 3rd CoC Meeting, the fees of the Liquidator were fixed at Rs.1,50,000/- per month. However, owing to the delays in completion of the liquidation process, the fees of the

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Liquidator were fixed at a consolidated amount of Rs.10,20,000/- instead of a per month fees resolved earlier. Later, when the Stakeholders' Consultation Committee (SCC) was constituted, the members of SCC, namely, GTL Ltd. and European Projects and Aviation Ltd., suggested reduction in fees of the Liquidator to Rs. 2 Lakh (excluding taxes and out of pocket expenses) as a lumpsum amount all-inclusive for the entire liquidation process since the higher amount of fees would impact the funds available for distribution to creditors. The Liquidator accepted the suggestion of the stakeholders named above and agreed for reduction of fees and conveyed the same by email dated 12.04.2022, which was acknowledged and approved by the SCC. Thus, the fee of the Liquidator was fixed at Rs.2,00,000/- (excluding taxes and out of pocket expenses) as a lump sum amount for entire liquidation process. The above discussed facts are evident from the minutes of the 1st and 2nd SCC Meetings annexed at Exhibit 'Q' and Exhibit 'S' respectively.

11. The Applicant has filed an Additional Affidavit dated 03.09.2024. In the said Additional Affidavit, the Applicant has stated, *inter-alia*, that since there was a shortage of funds during the CIRP of the CD, the OC i.e., European Projects & Aviation Ltd., had provided funds to the Resolution Professional by contributing Rs.4,50,000/- in respect of which the claim was admitted by the RP as CIRP Cost. The Additional Affidavit further states that Rs.4,50,000/-, which was contributed by European Projects & Aviation Limited, was distributed as follows:

<u>Sr. No.</u>	<u>Particulars</u>	<u>Amount (Rs.)</u>
1.	Registered Valuers	1,52,600/-
2.	Public Announcement	18,564/-
3.	Forensic Auditor	1,11,478/-
4.	Out of Pocket Expenses	17,358/-
5.	Fees of IRP	1,50,000/-
	TOTAL	4,50,000/-

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However, in respect of the CIRP Cost of Rs.4,50,000/-, the OC was paid only an amount of Rs.33,140.44/- as specified in the table hereinbefore.

12. The Applicant has disclosed pending income-tax assessment proceedings as well as the status of pending sales tax appeals impugning the tax demand in respect of the CD at Para 26 and 27 of the Application respectively. As discussed in the minutes of 2nd SCC meeting, the Applicant has already requested the Maharashtra Sales Tax Tribunal for withdrawal of appeal. It was further resolved to withdraw the sales tax appeal *vide* letter dated 13.12.2022, submitted to the Maharashtra Sales Tax Tribunal. Even otherwise, as discussed before, since there is no asset available for distribution to the stakeholders, the assessment and appellate proceedings, pending if any, have become infructuous and the same cannot be a ground to stall the dissolution of the CD. It was further discussed in the 2nd SCC Meeting that there is no possibility of realising other receivables including the VAT receivables amounting to Rs.3,78,20,909/-, of which the stakeholders took note. Further, as per the Additional Affidavit dated 07.01.2025 filed by the Applicant, 4th SCC Meeting was convened on 24.12.2024, wherein it was resolved, *inter-alia*, to forgo the M-VAT receivables of Rs.3,78,20,909/- and the said resolution was unanimously approved. Since the stakeholders have foregone their claim over the M-VAT receivables due to the bleak chances of its realisation, we see there is no point in keeping the liquidation process of the CD in abeyance any further.

13. The Applicant has pleaded that there are no proceedings in respect of avoidance transactions under Chapter III or fraudulent or wrongful transactions under Chapter VI of Part II of the Code. Further, on perusal of the Forensic Audit Report at Exhibit 'I' to the application, we find that the forensic auditor has given a finding that none of the preferential transactions under Section 43 or undervalued transactions under Section 45 or fraudulent transactions under Section 49 or extortionate transactions under Section 50 of the Code have taken place. The same has been confirmed by the Applicant while issuing the Compliance Certificate in Form 'H'.

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14. At para 7 of the Compliance Certificate in Form 'H', the Applicant has given reasons for not being able to complete the liquidation process after expiry of one year. The reasons given by the Applicant explaining the delay in completing the liquidation process within one year are that due to sudden outburst of COVID-19 Pandemic, the liquidation process of the CD was hampered due to office closures, unavailability of manpower, restriction on movements and other such issues faced during such period because of which the activities such as realisation of debtors and liquidation of investment of the CD were delayed resulting in prolonging of the liquidation process. We find the above reasons explaining and justifying the delay in completion of liquidation process of the CD to be genuine and satisfactory.
15. From the averments made in the Application along with the documents annexed thereto and on perusal of the Final report and the Compliance Certificate filed in Form-H by the Applicant, it is seen that the CD has been completely liquidated in accordance with law. Therefore, in the circumstances as averred and as prayed for by the Applicant, order for dissolution is required to be passed by this Tribunal under Section 54 of the IBC. **Accordingly, we hereby order dissolution of the CD, viz., Infolink Solutions Private Limited from the date of this order and the Corporate Debtor stands dissolved.**
16. Consequently, the Applicant Mr. Prashant Bhatia (holding Registration No. IBBI/IPA-001/IP-P01394/2018-19/12232) is hereby discharged from his duties and responsibilities as the Liquidator of the CD.
17. The Liquidator and the Registry are directed to forward the copy of this Order to the RoC concerned and also to the IBBI for its records within a period of 7 days from the date of this Order.
18. The Liquidator shall preserve all records in terms of Regulations 45A of the Liquidation Process Regulations.

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19. In terms of the above, this I.A. No. 378 of 2023 stands allowed and disposed of and CP(IB) No. 447(MB)/2018 stands closed.

Sd/-

**ANIL RAJ CHELLAN
(MEMBER TECHNICAL)**

Sd/-

**K. R. SAJI KUMAR
(MEMBER JUDICIAL)**