

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA/264/IB/2020 in CP/885/IB/2018
filed under Sections 33 (2) and
Section 60 of the Insolvency and
Bankruptcy Code, 2016

In the matter of M/s. MPL Cars Private Limited

Mr. K. Sivalingam,
Resolution Professional
M/s. MPL Cars Private Limited
Flat No. 1603, Tulive Hirozon Residence
16/1, Arunachalam Road,
Saligramam, Chennai-600093

---Applicant/Resolution Professional

-VS-

Mr. Singaravelu Ravindranathan
No. 10, Saradambal Street,
Gokulam Colony, T. Nagar,
Chennai-600017

---Respondent-1

Ms. Madhavi Lata
No. 10, Saradambal Street,
Gokulam Colony, T. Nagar,
Chennai-600017

---Respondent-2

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

For Applicant : *Shri. K. Sivalingam, RP*



IA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 27.01.2021

This Interlocutory Application (IA) filed u/s 33(4) of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Resolution Professional (in Short "RP") seeking for liquidation of the Corporate Debtor namely M/s. MPL Cars Private Limited.

2. From the averments made in the Application, it is evident that the CIRP of the Corporate Debtor was initiated on 13.08.2019 in CP/885/IB/2018 and Ms. Priya S. Anand was appointed as IRP. The IRP caused public announcement calling for the claims from the Creditors of the Corporate Debtor by virtue of publication dated 17th August, 2019 and last date to submit the claim was fixed as 28.08.2019. Thereafter, the IRP constituted the Committee of Creditors on 30.08.2019. The Committee of Creditors was consisting of 3 (three) Financial Creditors. The IRP had received claims from the 3 (three) financial creditors on 28.08.2019 with a total amount of



IA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited

Rs. 4,032.46 Lakh and one operational Creditor for an amount of Rs. 100.28 Lakh.

3. Pursuant to this, the 1st meeting of the CoC was constituted on 11.09.2019. The IRP informed the Members of the COC that there was no response from the Suspended Directors of the Corporate Debtor for ascertaining the books and records of the Corporate Debtor and the status of the securities provided to the lenders. Meanwhile, the Operational Creditor, who triggered the CIRP, filed an Application MA/945/2019 on 04.09.2019 to withdraw the CIRP petition filed against the Corporate Debtor before this Tribunal. The Operational Creditor communicated the same to the IRP through mail. The IRP replied to his mail stating that the COC has been constituted on 30th August, 2019 and withdrawal of CIRP is possible only with voting by the COC members, as per section 12A of the IBC, 2016. The withdrawal application came for hearing on 06.09.2019 filed by the Operational Creditor, the Bench passed an order on 06.09.2019 as follows:

MA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited



On the withdrawal application filed by the Operational Creditor, this CP/885/IB/2018 was admitted on 08.08.2019 and before constitution of the COC on the ground the claim sought by the Applicant was resolved, this CP/885/IB/2018 is hereby dismissed as withdrawn with a direction to the Operational Creditor and the Corporate Debtor to pay the remuneration of IRP as contemplated under the statute.

4. Thereafter, the IRP filed an application MA/951/2019 on 9th September, 2019 before this Tribunal for recalling the order dated 06.09.2019. This Bench, heard the matter and allowed MA/951/2019 dated 06.09.2019 by dismissing MA/945/2019 filed by the Operational Creditor to approach the IRP as contemplated under the statute.

5. Thereafter, the IRP conducted 2nd COC meeting on 04.10.2019, in which one of the Financial Creditor proposed to replace the IRP and placed the same before COC, and the COC had decided to replace the continuing IRP with another RP as per section 22(2) of the Insolvency and Bankruptcy Board of India (Insolvency

Resolution Process for Corporate Persons) Regulations, 2016. Based

IA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited



on the resolution passed by the COC, this bench passed an order for appointing Mr. K. Sivalingam, applicant herein, as Resolution Professional of the Corporate Debtor vide order dated 25.10.2019.

6. Thereafter, the RP has sent intimation letters to the statutory authorities such as Tax Department, ROC etc and also asked to submit their claims, if any. The RP had appointed two registered valuers on 13.11.2019 for valuation of land and building of the Corporate Debtor. The RP has informed to the COC members at the 3rd CoC meeting held on 06.12.2019 that he had received a claim from the Income Tax Department for Rs. 59,76,827/- apart from the claims finalised by the erstwhile IRP. He also received a claim from an Operational Creditor for Rs. 25,86,699/-.

7. It is further submitted that the RP put forth before the COC members, the eligibility criteria for issuing EOI and also informed to the members of the COC that the operations of the corporate Debtor were closed since 2016 and there were no dealership centres or service centres available now, no assets expect one incomplete flat mortgaged exclusively to M/s. Sundaram Home Finance Limited.

LA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited



The COC expressed their concern that there seems no merit in publication of EOI as there will not be any Resolution Plan. Thereafter, the COC members concluded that the publication of EOI would be a futile exercise and would be a further loss of time and money.

8. Therefore, in their 4th meeting held on 12.12.2019 with 89.17% voting of COC had passed the resolution to the Liquidate the Corporate Debtor. The Members of the COC resolved and recommended the applicant to act as the liquidator of the Corporate Debtor. The RP also expressed his wiliness to act as Liquidator and has given his written consent to act as liquidator vide Form-2 on 21.12.2019.

9. In view of the facts discussed supra, since the CoC in its 4th meeting held on 12.12.2019 with 89.17% voting share has decided to liquidate the Corporate Debtor and also in view of the fact that there are no objections being raised by any person, this Tribunal hereby

orders for the liquidation of the Corporate Debtor namely M/s. MPL Cars Private Limited and Mr. K. Sivalingam, having Reg No.

JA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited



IBBI/IPA-001/IP-P01597/2018-2019/12430 is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;



IA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited

- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authority which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) 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.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed



IA/264/IB/2020 in CP/885/IB/2018

In the matter of M/s. MPL Cars Private Limited

under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

- j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., and company-in-liquidation.

10. Hence, this application IA/264/IB/2020 stands disposed of with the aforesaid terms.

-sd-
ANIL KUMAR B)
MEMBER (TECHNICAL)

TJS



-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

Not filed
DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR,
29, RAJAJI SALAI, CHENNAI-600001

DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE

Certified to be True Copy