(14)

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

IA/603/CHE/2021 in IBA/779/2019

(Filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***MPL Parts and Services Private Limited***

A Mohan Kumar,
RP of MPL Parts and Services Private Limited
No.6, F1, Abdul Regency,
South Mada Street, Srinagar Colony,
Saidapet, Chennai - 600015

... Applicant

Order Pronounced on **26th November 2021**

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant: S. Sathiyanarayanan, Advocate

ORDER

Per: **SAMEER KAKAR, MEMBER (TECHNICAL)**

The IA/603/CHE/2021has been filed by the Applicant under Section 33(2)of the Insolvency and Bankruptcy Code, 2016,seeking relief as follows;

a. *To pass an order of Liquidation of the Corporate Debtor Viz., MPL Parts and Services Private Limited*

b. *To appoint A.Mohan Kumar (IBBI/IPA-002/IP-N00377/2017-18/11120) as the Liquidator*

c. *To pass an order cessation of the moratorium declared under section 14 of IBC.*

2. From the averments made by the Applicant, it is evident that the CIRP initiated by this Tribunal at the instance of an application filed by the Financial Creditor against the Corporate Debtor U/s 7 of the IBC and the Applicant herein was appointed as IRP on 13.11.2020 and the IRP caused public announcement on 17.11.2020 by receiving a claim only from Sundaram BNP Paribas Home Finance Ltd., the Financial Creditor.

3. It is averred in the application that the applicant also received claim from State Bank of India and the same was rejected. Thereafter, the State Bank of India has preferred an application before this Hon'ble Tribunal against the rejection and the same is pending and no claims was received from any Operational Creditor and Employees.

4. The learned counsel for the Applicant submitted that the director had preferred an appeal before the Hon'ble NCLAT and the same is pending and no orders has been passed in the appeal.

5. The learned counsel for the Applicant further submitted thatthe Committee of Creditors (COC) was constituted with the Sole Financial Creditor Viz., Sundaram BNP Paribas Home Finance

Ltd. and the 1st CoC meeting was held on 17.12.2020, the Applicant herein was appointed as the Resolution Professional.

6. The learned counsel for the Applicant further submitted that the Corporate Debtor does not have any business at the time of commencement of CIRP. Further, there are no employees in the Corporate Debtor.

7. The learned counsel for the Applicant further submitted that the CoC, after considering various factors including the fact that there is no viable on-going business, had decided and passed a Resolution to liquidate the Corporate Debtor at its 2nd CoC Meeting held on 12.05.2021.

8. The learned counsel for the Applicant further submitted that the CoC in its Second meeting held on 12.05.2021 had unanimously resolved to liquidate the Corporate Debtor U/s. 33(2) of IBC and directed the Applicant herein to approach this NCLT Chennai Bench, with an application seeking directions for liquidation of the Corporate Debtor and the Applicant herein being eligible has consented to act as Liquidator of the Corporate Debtor and also filed his consent in Form AA. Also, it is Seen form the IBBI records that the Applicant is having AFA till 12.01.2022.

9. In view of the decision taken by the CoC that the revival of the Corporate Debtor is bleak and also in view of the fact that the

Company has ceased to be a going concern much before the CIRP commenced.

10. Thus, as a consequence of the above, the Corporate Debtor is required to be ordered for liquidation as per Section 33(1)(a) of IBC, 2016. We hereby appoint **Mr. A. Mohan Kumar,** with **Reg. No. (IBBI/IPA-002/IP-N00377/2017-18/11120)** 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 enjoined upon her.

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;

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 authorities which govern 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 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.

11. Accordingly, IA/603/CHE/2021 filed for Liquidation of the Corporate Debtor stands **allowed**.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)

Sriram Ananth V