(309)

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

IA/90/CHE/2022 in IBA/1277/2019

(Filed under Section 33(2) read with 60(5) of the Insolvency and Bankruptcy Code, 2016

In the matter of ***M/s. Wayne-Burt Aerospace Private Limited***

Mr. A. Mohan Kumar
Resolution Professional of
M/s. Wayne-Burt Aerospace Private Limited
Flat F1, Sudarsan Apartments,
72, VGP Selva Nagar Second Main Road
Velachery, Chennai-600 042.

... *Applicant /Resolution Professional*

Order Pronounced on ***28th April 2022***

CORAM:

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

For Applicant : S.Sathiyanarayanan, *Advocate*

ORDER

***Per:* R. SUCHARITHA, MEMBER (JUDICIAL)**

This is an application filed under Section 33(2) read with 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking relief as follows:

(i) To pass an order of Liquidation of the Corporate Debtor Viz, Wayne-Burt Aerospace Private Limited under Section 33(2) of I &B Code, 2016 as unanimously resolved in the 3rd CoC Meeting dated 08.12.2021.

(ii) Appoint Mr. A. Mohan Kumar as the Liquidator of the Corporate Debtor Viz, Wayne-Burt Aerospace Private Limited as resolved in the 3rd CoC Meeting dated 08.12.2021.

(iii) Pass such further or orders which this Hon'ble Tribunal may deem fit and proper in the circumstances of this case and thus render justice.

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated and the Applicant herein was appointed as IRP on 24.03.2021. IRP caused public announcement calling for the claimants from the Creditors of the Corporate Debtor by virtue of publication dated 26.03.2021. The Committee of Creditors (CoC) was constituted on 08.04.2021 comprising of sole Financial Creditor viz., Sundaram BNP Paribas Home Finance Ltd.

3. Pursuant to that the 1st meeting of the CoC was held on 14.05.2021 and voted in favour of IRP's continuation as the RP on the same date. Thereafter, the RP convened the 2nd CoC meeting on 04.09.2021, wherein the RP discussed about approaching the Tribunal for seeking exclusion of time period lost due to COVID Lockdown. The CoC resolved and authorized the applicant to file appropriate application and an application IA/1054/2021 was filed before this Tribunal for seeking exclusion of 91 days from the CIRP

and this Tribunal vide its order dated 23.11.2021 granted the same.

4. It has been averred in the Application that the applicant made public announcement in Form G, inviting Expression of Interest in Financial Express and Makkal Kural on 14.09.2021. However no Resolution Plans were received from any interested parties. The Committee of Creditors, keeping in view the fact that the Corporate Debtor was not having any operations for the past few years and no revenue from the financial year 2017 and the fact that no resolution plan was received till the last date i.e., 02.11.2021, unanimously decided to liquidate the Corporate Debtor in its third meeting held on 08.12.2021 and directed the applicant to approach this Tribunal seeking directions for the same. Minutes of the third meeting of the CoC held on 08.12.2021 has been enclosed at pages 20-22 of the application wherein the following two resolutions have been passed:

i) Resolved further that since no resolution plan was received in respect of corporate debtor, the approval of the CoC be and is hereby granted for the liquidation of M/s. Wayne-Burt Aerospace Private Limited;

ii) Resolved that the approval of the CoC be and is hereby granted for the appointment of A. Mohan Kumar as the liquidator

5. The proposed Liquidator, Mr. A. Mohan Kumar has also filed his written consent to act as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorization for Assignment (AFA) for the RP is valid up to 18.01.2023.

6. It was further averred in the Application that the Applicant/RP has complied Compliance Certificate in Form-H with all the mandatory requirements of CIRP of the Corporate Debtor as provided under the I&B Code, 2016 and its allied Regulations, 2016.

7. It was further averred in the Application that no successful resolution plan have been received by the CoC during the CIRP period of the Corporate Debtor and the resolution passed and confirmed by the Committee of Creditors during the 3rd CoC Meeting dated 08.12.2021.

8. In the circumstances, 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 him.

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.

9. Accordingly, IA/90/CHE/2022 filed for Liquidation of the Corporate Debtor stands **allowed**.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)

S.Priya