

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH, KERALA**

M.A. No. 38/KOB/2019

In IBA 133/2019 of NCLT, CHENNAI BENCH

(Under Section 33(2) of the Insolvency and Bankruptcy Code 2016)

Order delivered on: 10.01.2020

Coram:

Hon'ble Mr. Ashok Kumar Borah, Member (Judicial)

Hon'ble Mr. Veera Brahma Rao Arekapudi, Member (Technical)

Ashok Velamur Seshadri,
The Resolution Professional for
Archana Motors Private Limited,
2018/11541, No. A2, Dynamic Flats,
Parangusapuram Street,
Kodambakkam, Chennai-600 061.

..... **Applicant**

In the matter of

Minsa Tech India Private Limited

---Operational Creditor

Vs

Archana Motors Private Limited

---Corporate Debtor

ORDER

This MA has been filed by the Resolution Professional in IBA/133/2019 (Chennai Bench) filed by Minsa Tech India Private Limited against Archana Motors Private Limited praying to pass an order under Section 33(2) of the Code for liquidation of the company; appoint the Resolution professional as Liquidator of the Corporate Debtor; and /or pass any other order this Tribunal deems fit and proper in the circumstances of the case.

2. The gist of the case is The Corporate Debtor Archana Motors Private Limited was the dealer of Tata Motors Vehicles.. The business of the CD has drastically came down due to non-continuance of the Dealership by Tata Motors in the year 2018 and it completely stopped its business in 2019. The CD has physical assets and receivable worth Rs. 24 crores but none of the assets are traceable and there are no whereabouts of the person from whom money are collectable. On verification of the assets by the RP found that the liquidation value of the Corporate Debtor is nil as of now. The fourth meeting of the Committee of Creditors held on 16.12.2019 with 100% voting rights resolved to liquidate the Corporate Debtor for the reason that there are no assets to the Company and further there was no prospects in reviving the business of the Company. Hence the MA has been filed under Section 33(2) of the Code for ordering liquidation of the Corporate Debtor. It was also decided by the Members of the Committee with 100% voting right to appoint the applicant herein/Resolution Professional as the Liquidator for conducting the Liquidation of the Corporate Debtor. The Resolution Professional submitted that he has given his consent which is produced as Annexure 4.

3. We have thoroughly perused all the case records including the exhibits ie., Copy of the order of the Hon'ble NCLT, Chennai Bench dated 1.7.2019, admitting the Corporate Debtor for Corporate Insolvency Resolution Process, copy of Master Data of the Corporate Debtor from MCA website, Copy of the minutes of the fourth meeting of the Committee of Creditors held on 16.12.2019 and Form AA-written consent of the RP to act as the Liquidator of the Corporate Debtor.

4. Section 33(2) of the Insolvency and Bankruptcy Code 2016, which is as follows:

“33. (1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.”

5. After considering all the above aspects, we pass the following order: -

(a) Liquidation of the Company under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016; and

(b) Appointing the Resolution Professional as Liquidator of the Corporate Debtor; under Section 34(1). He is governed by Sections 35, 37 and relevant regulations issued by IBBI for liquidation, from time to time.

6. With the above directions, this M.A 38/ KOB/ 2019 is disposed of.

Dated the 10th day of January, 2020

Sd/-

(Veera Brahma Rao Arekapudi)
Member (Technical)

Sd/-

(Ashok Kumar Borah)
Member (Judicial)