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

IA (IBC)/1287 (CHE)/2022 in CP/1362/IB/2018

(Filed under Section 54 of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***MPL Automobiles Agency Private Limited***

C.PRABAKARAN,
Liquidator of MPL Automobiles Agency Private Limited
3/6, 10th Street, Venkateswara Colony
MMC, Chennai 600 051

... Applicant

Order Pronounced on ***22nd November 2023***

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant: S.Sathiyanarayanan, Advocate

ORDER

(Heard Through Physical Mode)

This Application IA(IBC)/1362 (CHE)/2023, has been filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 by the liquidator of the Corporate Debtor herein seeking for an order for Dissolution of the Corporate Debtor viz., ***MPL AUTOMOBILES AGENCY PRIVATE LIMITED***.

2. It is stated that CIRP of the Corporate Debtor was initiated by this Tribunal vide order dated 24.10.2019 and One Mrs.Usha Balasubramanian was appointed as IRP.

3. It is stated that Liquidation of the Corporate Debtor was ordered by this Tribunal on 07.01.2022 in MA/31/CHE/2021 and the Applicant namely C.Prabakaran was appointed as the Liquidator.

4. Pursuant to the order of Liquidation, the Applicant had caused Public Announcement on 11.01.2022 by inviting claims from all the stakeholders and fixed the last date for submission of claim as 06.02.2022.

5. It is stated that the Applicant received claims from the following stakeholders of the Corporate Debtor. The details of Claims submitted and claim admitted are as under:

S. No.	**Details of Stakeholders**	**Class of Stakeholder**	**Amount of Claim admitted (In Rs.)**
1	*Axis Bank	Secured Financial Creditors	4,37,65,006
2	*ICICI Bank	Secured Financial Creditors	7,19,08,415
3	Assistant Commissioner State Tax	Government (Operational creditor)	1,44,78,725
4.	Employees' State Insurance Corporation	Government (Operational creditor)	9,477
5	Employees Provident Fund Organisation	Government (Operational creditor)	2,14,974
6	**Opulent Auto Care Pvt Ltd	Operational creditor	11,79,997
	Total		**13,15,56,594**

** No claims were received from the Financial Creditors on the last date of submission of Claims i.e. 6th February 2022. In absence of the same, Liquidator has considered the claim amount of financial creditors for Rs. 11,56,73,421/- (Axis Bank Rs.4,37,65,006 and ICICI Bank Rs. 7,19,08,415) based on the claims filed with late IRP – Ms. Usha Balasubramanian during the CIRP Period*

*** No claims were received from the Operational Creditor M/s. Opulent Auto Care Private Limited (Applicant of CIRP) – Unsecured (other than government dues) on the last date of submission of Claims i.e. 6th February 2022. In absence of the same, Liquidator has considered the claim amount of unsecured Operational creditor for Rs. 11,79,997/- based on the claim filed with late IRP – Ms. Usha Balasubramanian during the CIRP Period.*

6. It is stated that the Corporate Debtor did not have any operations at the time of commencement of liquidation. There were no employees and the unit remained as a closed unit. Further, the Corporate Debtor has no realizable assets as per the audited financial statement for FY 2017-18.

7. It is stated that the financial creditors of the Corporate Debtor had informed the Applicant that they are unwilling to participate in the liquidation process of the Corporate Debtor.

8. It is stated that since no funds were foreseeable to be received, no Bank Account was opened as Liquidation Account.

9. It is stated that the Corporate Debtor has no realizable assets. Applicant also appointed two Registered Valuers as required under the IBBI (Liquidation Process) Regulations, 2016, for valuing the not readily realizable

assets, however, the Registered Valuer could not commence valuation work due to non-availability of physical/realizable assets and required information of assets. Moreover, due to non-availability of funds with the Corporate Debtor, bundled with zero participation of financial creditors in liquidation process or payment of contribution towards Liquidation Cost as per regulation 2A of the IBBI (Liquidation Process) Regulation, 2016, the valuers did not commence the assignment.Even, no valuation of assets was carried out even during CIRP Process by the erstwhile IRP.

10. It is stated that the suspended directors of the Corporate Debtor are not traceable and the efforts to obtain information about the assets of the Corporate Debtor were also in vain.

11. It is stated that the Applicant Liquidator had earlier filed an application bearing IA/828/2022 under Section 54 of the Code seeking for dissolution of the Corporate Debtor and also seek directions to the financial creditors to pay the liquidator fee and cost incurred by him. This Tribunal vide order dated 10.10.2022 in IA/828/2022 dismissed the application and granted liberty to the Applicant to file two separate applications for seeking direction to the financial creditors to pay liquidator fee and liquidation cost incurred by him and also for seeking dissolution of the Corporate Debtor. Accordingly,

the two separate applications including this application were filed by the Applicant.

12. The details of the relevant compliances as mandated under Section 54 of the IBC, 2016 read with the IBBI (Liquidation Process) Regulations, 2016 are as under:-

S. No	Compliance	Averments	Page No. in the Application
1	Regulation 12	Public Announcement in Form B in Trinity Mirror and Makkal Kural dated 11.01.2022	37-39
2	Regulation 35(2)	Appointment of Registered Valuers where no valuation conducted during CIRP	Para 13 at Page Nos.5-6 of the application
3	Regulation 31(2)	List of Stakeholders within 45 days of the Liquidation Commencement Date	73-79
4	Regulation 31A	Constitution of Stakeholders Consultation Committee (SCC)	78-79
5	Regulation 13	Preliminary Report dated 23.03.2022	40-59
6	Regulation 34	Preparation of Asset Memorandum dated 20.03.2022	60-70
7	Regulation 41	Opening of Bank Account in the name of the company in Liquidation in a Scheduled Bank	Para 9 at Page 5 of the application
8		Proof of Closure of the above Bank Account and other account in the name of the Company	N/A
9	Regulation 15	Quarterly Progress Reports and proof of filing the same before this Tribunal	80-104
10	Regulation 36	Asset Sale Reports after sale of Reports	N/A

11	Regulation 42(2)	Proof of Distribution within Ninety days from the receipt of realization	N/A
12	Regulation 45 (3)	Final report dated 22.06.2022	178-201
13	Regulation 5 (1) (e)	Compilation of Minutes of SCC	105-164
14	Regulation 15	Audited Accounts of receipts and Payments	N/A
15	Regulation 37	Completion of Liquidation Process within one year from Liquidation Commencement Date or extension if any, date of the order & period	N/A
16		Form-H	165-176

13. It is seen from Form-H that the Applicant / Liquidator has not filed any Application under Sections 43, 45, 50 and Section 66 of IBC, 2016. Further in Form –H, the amounts distributed to stakeholders as per Section 52 and 53 of the code is as under:

(Amount in Rs. lakh)

Sl. No.	Stakeholders* under section 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributedto the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a): CIRP Costs	N.A.	N.A.	N.A.	N.A.	N.A.
2	(a): Liquidation Costs***	*40,694	40,694			Pending
3	(b)(i)	N.A.	N.A.	N.A.	N.A.	N.A.
4	(b)(ii)	11,56,73,421	11,56,73,421	NIL	NIL	**
5	(c)	N.A.	N.A.	N.A.	N.A.	N.A.
6	(d)	11,79,997	11,79,997	NIL	NIL	**
7	(e)(i)	1,47,03,176	1,47,03,176	NIL	NIL	Company has no liquid fund nor any realizable assets
8	(e) (ii)	N.A.	N.A.	N.A.	N.A.	
9	(f)	N.A.	N.A.	N.A.	N.A.	
10	(g)	N.A.	N.A.	N.A.	N.A.	
11	(h)	N.A.	N.A.	N.A.	N.A.	
Total		13,15,97,288	13,15,97,288			

*If there are sub-categories in a category, please add rows for each sub-category. - *Not applicable*

Note:
** During Liquidation Process, no claims were received from the Financial Creditors on the last date of submission of Claims i.e. 6th February 2022. In absence of the same, Liquidator has considered the claim amount of financial creditors for Rs. 11,56,73,421/- (Axis Bank Rs.4,37,65,006 and ICICI Bank Rs. 7,19,08,415) based on the claims filed with late IRP – Ms. Usha Balasubramanian during the CIRP Period.

**During Liquidation Process, no claims were received from the Operational Creditor M/s. Opulent Auto Care Private Limited (Applicant of CIRP) – Unsecured (other than government dues) on the last date of submission of Claims i.e. 6th February 2022. In absence of the same, Liquidator has considered the claim amount of unsecured Operational creditor for Rs. 11,79,997/- based on the claim filed with late IRP – Ms. Usha Balasubramanian during the CIRP Period.

*** The CA certified liquidation cost (actual expenses incurred in Liquidation Process) excluding Liquidator fees from 07.01.2022 to final order of dissolution of company and legal expenses towards preparation and filing of Interlocutory Application for dissolution of Company under regulation 14 of under Regulation 14 of Liquidation Process Regulation, 2016 along-with details of estimated cost are enclosed herewith and have been submitted to financial institutions as per Regulation 2A of Liquidation Process Regulations 2016.

14. At this juncture, it is relevant to refer Section 54 of the IBC, 2016 which reads as under: -

> ***Section 54***
>
> *"(1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.*
>
> *(2) The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.*
>
> *(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered."*

15. From the averments made in the Application and on perusal of the final report and the Compliance Certificate filed in Form-H, we find that the Corporate Debtor has been completely liquidated. In the circumstances as averred and as prayed for by the Applicant, an order for dissolution is required to be passed by this Tribunal under Section 54 of the IBC, 2016. Accordingly, we order for the dissolution of the Corporate Debtor viz., ***MPL Automobiles Agency Private Limited.*** The Liquidator is 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.

16. In terms of the above, this IA (IBC) 1287/CHE/2022 stands **allowed** and CP/1362/IB/2018 also stands **disposed of**

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)