

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

IA (IBC)(DIS.)/01/KOB/2024

IN

IBA/133/KOB/2019

*(Under Section 54 of IBC, 2016 read with Regulation
45(3)(b) of the IBBI (Liquidation Process) Regulations,
2016)*

***In the matter of* ARCHANA MOTORS PRIVATE
LIMITED**

MEMO OF PARTIES:

ASHOK VELAMUR SHESHADRI,

Liquidator, Archana Motors Private Limited,

... Applicant

Order delivered on: 25.04.2024

Coram:

Hon'ble Member (Technical)

Shri. Shyam Babu Gautam

Hon'ble Member (Judicial)

TMT. (Retd.) Justice T Krishna Valli

Appearances:

For the Applicant : Mr. Vinod P V, Advocate

Liquidator : Mr. Ashok Velamur Sheshadri

ORDER

Per Coram

1. This I.A has been filed by the Liquidator of Archana Motors Private Limited, the Corporate Debtor, seeking to allow dissolution of Corporate Debtor (CD) and to permit the liquidator to pursue the

pending avoidance applications as resolved by the stakeholder's consultation committee. The brief facts of the case are: -

2. Corporate Debtor was put to liquidation Process by this Tribunal's order dated 10.01.2020 and the applicant was appointed as the liquidator. It is stated that the liquidation commenced from 10.01.2020, and the liquidation period was extended including exclusion 8 times by this Tribunal till 31.10.2023. It is stated that the SCC held its last meeting on 16.11.2023 decided to dissolve the company on advice of liquidator. As there was delay in filing of this application on account of 2 writ petitions pending before Hon'ble High Court, further extension of liquidation period till 13.03.2024, the date of filing of this application as sought for by the liquidator was granted.
3. The applicant carried out public announcement inviting claims in Form B on 18.1.2020, received a total claim for Rs.22,25,91,343.57, and admitted claims up to Rs. 21,55,68,800.35. It is stated that no valuers were appointed as there were no traceable assets in the CD and therefore the liquidation value of CD is stated as nil. It is stated that liquidator filed the preliminary report along with list of stakeholders and asset memorandum, and 19 progress reports which was taken on record by this Tribunal.
4. It is stated that even though Rs.24 crore worth physical assets was shown in the books of CD as per the balance sheet for FY 2018, no asset was traceable. An IA/27/KOB/2021 filed by liquidator under section 66 of IBC against promoters/directors to compensate loss

of Rs. 21.37 crore suffered by CD was allowed by this Tribunal, further to the attach and sell properties of promoters/directors. It is stated that secured creditor-SBI meanwhile sold properties worth Rs. 5.12 crore of promoters/directors under SARFAESI and balance proceeds were authorised be paid to Yes Bank. Liquidator communicated that order of this Tribunal has superior charge over claim of secured creditors and asked SBI not to remit balance proceeds to Yes Bank. Meanwhile South Indian Bank has also proceeded before Hon'ble High Court of Kerala against recovery of sum by liquidator.

5. It is stated that only Rs. 4,70,608 was realised out of liquidation which was adjusted against the cost and fees of liquidator, and the liquidator was authorised by SCC in its last meeting to pursue the order of this tribunal in IA/27/KOB/2021 to recover amount due as well as to appropriate his balance remuneration out of the sum recovered.
6. There is no requirement to comply with IBBI corporate liquidation account as no deposit has been made to it. Liquidator has produced Audited receipts and payments of the liquidation account up to 29.02.2024 as Annexure A/11 with application. It is stated that the liquidation account balance is nil as per Annexure A/10 bank statement and the closure certificate will be submitted to this Tribunal once received by liquidator. The liquidator has produced Final report and Form H compliance affidavit along with application as Annexure A/8 and A/9. Applicant further state in

Form H that there are no other proceedings under preferential, undervalued, fraudulent and extortionate (PUFE) transactions other than supra.

7. Heard the submissions and perused the documents on record. This is an application filed for dissolution of the Corporate Debtor. The applicant has produced the Form H compliance affidavit and Final Report on liquidation along with this application as Annexure A/8 and A/9. The applicant has also produced Audited receipts and payments of CD liquidation account along with minutes of SCC meeting dated 16.11.2023 as Annexure A/11 and A/6. In light of facts stated, it is noticed that the assets of the Corporate Debtor have been completely liquidated under IBC, 2016, and that the proceeds have been insufficient for distribution to the creditors and even to meet the costs. It is noted that amount is pending to be recovered from section 66 application will be pursued by liquidator after dissolution and the amount after adjusting his remuneration will be distributed to stakeholders as per IBBI regulations. No objection has been raised by any person to this application.
8. Now, for the purpose of Dissolution of a Corporate Debtor, Section 54 of The Insolvency and Bankruptcy Code, 2016 reads as under: -

“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 subsection (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.”

9. As a consequence, in view of above, it is hereby declared that not only it is just and equitable but because of the fact that no asset is available for the purpose of ‘Liquidation’ as reported by Learned Liquidator, this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016. Ordered accordingly. The Corporate Debtor, Archana Motors Private Limited, stands **‘Dissolved’** from the date of this Order.
10. Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies having jurisdiction, for further necessary action as prescribed under Law.
11. The application, **IA (IBC)(Dis.)/01/KOB/2024** is, therefore, allowed and disposed of. Accordingly, **IBA/133/KOB/2019** is hereby closed. All connected applications are also disposed of accordingly.

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In re Archana Motors Private Limited

12. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties and their counsel for information and for taking necessary steps.
13. Let the certified copy of the order be issued upon compliance with requisite formalities.
14. File be consigned to records.

SHYAM BABU GAUTAM Digitally signed by SHYAM BABU GAUTAM
Date: 2024.04.25 16:09:09 +05'30'

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

T.KRISHNAVALLI Digitally signed by T.KRISHNAVALLI
Date: 2024.04.25 16:08:48 +05'30'

T KRISHNA VALLI
(MEMBER JUDICIAL)

Signed on this, the 25th day of April, 2024.

Rohit/LRA