

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA(IBC)/688/(CHE)/2022

In

CP(IB)/36/(CHE)/2021

(filed under Section 33(2) r/w Section 60 of the Insolvency & Bankruptcy Code, 2016)

In the matter of M/s. Effimax Engineers Private Limited

Mr. Chandramouli Ramasubramaniam

Resolution Professional of

M/s. Effimax Engineers Private Limited,

Flat No. 3, Plot No. 1051,

'I' Block, 18th Main Road, Anna Nagar West,

Chennai – 600 040

...Applicant/Resolution Professional

In the matter of

Mr. Narendra Sakariya

Prop. of M/s. Madras Steels & Tubes

No. 45 (old no. 21), Halls Road,

Kilpauk, Chennai – 10

...Operational Creditor

-Vs-

M/s. Effimax Engineers Private Limited,

Flat No. 3, Plot No. 1051,

'I' Block, 18th Main Road, Anna Nagar West,

Chennai – 600 040

...Corporate Debtor

Order Pronounced on 17th November 2022

COROM

Dr. DEEPTI MUKESH, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : C. Ramasubramaniam, IRP

ORDER

Per: Dr. DEEPTI MUKESH MEMBER (JUDICIAL)

Under Consideration is an application filed by Mr. Chandramouli Ramasubramaniam, Resolution Professional of M/s. Effimax Engineers Private Limited under section 33 (2) read with section 60 of the Insolvency and Bankruptcy Code, 2016 seeking relief as follows,

- a) *That this Hon'ble Adjudicating Authority may be pleased to pass an order of liquidation and appoint the Resolution Professional, being the Applicant as the Liquidator of M/s. Effimax Engineers Private Limited.*
- b) *That all and any consequent orders pursuant to the order of liquidation of said "M/s. Effimax Engineers Private Limited" be passed. For costs, and for such other and further reliefs as the nature and circumstances of the case may require.*

2. Originally, the Corporate Debtor was admitted into CIRP vide order dated 15.12.2021 pursuant to an application filed by one Mr. Narendra Sakariya in the capacity of an operational creditor under section 9 of the Code and Mr. T. Sivagurunathan was appointed as the IRP by this Adjudicating Authority. Thereafter, the IRP on 20.12.2021 had issued publication in one Trinity Mirror (English) and Makkal Kural (Tamil).

3. The Learned Counsel for the Applicant had further averred that the last date for submission of claims was on 31.12.2021. The IRP had convened the 1st Committee of Creditors (CoC) meeting on 13.01.2022. Thereafter the 2nd CoC was held on 08.03.2022 where resolution as to appoint the Applicant herein as the Resolution Professional (RP) was passed. Subsequent to which, an order confirming the appointment of the applicant herein as the Resolution Professional was passed by this Adjudicating Authority.

4. The Learned Counsel for the Applicant had averred that the 3rd CoC meeting was held on 02.05.202. Thereafter, Form G,

Invitation for Expression of Interest was issued on 04.05.2022 specifying last date for submission of EoI as 19.05.2022 and last date for submission of Resolution Plan on 09.06.2022.

5. Thereafter the 4th CoC meeting was held on 14.06.2022. Upon perusal of the minutes of the 4th CoC meeting it is seen that the applicant had received EoI from one prospective resolution applicant. However, the said prospective applicant was found to be ineligible as the requisite eligible net worth criteria as mandated by the CoC was not met out. In view of absence of any assets of the Corporate Debtor appointment of a valuer was not carried out. Since the last day of the CIRP period (180 days) was on 14.06.2022, the RP had convened the CoC meeting on 14.06.2022 and requested the members of the CoC for further course of action. After deliberation it was unanimously decided to conduct an e-voting for the resolutions laydown thereof.

6. The members of the CoC during the e-voting conducted on 14.06.2022 with 100% voting has resolved to liquidate the Corporate Debtor/Assess the sale of the Corporate Debtor as a going concern. The said resolution as extracted from the e-voting summary is hereunder,

Resolved that the Corporate Debtor "Effimax Engineers Private Limited" be liquidated and the Resolution Professional is authorized to apply with the Hon'ble National Company Law Tribunal, Chennai

Bench and to act as Liquidator for the liquidation of the Corporate Debtor under section 33 (2) of IBC, 2016.

Resolved further that pursuant to the sub-section 1 of the section 34 of the Insolvency and Bankruptcy Code, 2016 Mr. C. Ramasubramaniam (IP No. IBBI/IPA-002/IP-N00052/2016-17/10096) Resolution Professional who is holding a valid Authorisation for Assignment (AFA) be and is hereby appointed as the Liquidator subject to the approval of the Hon'ble National Company Law Tribunal, Chennai Bench

Resolved further that pursuant to the Regulation 4 (1) of IBBI (Liquidation Process) Regulations, 2016 read with Regulation 39D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the fee payable to the Liquidator is Rs. 1,00,000/- (Rupees one lakh) per month plus 18% GST.

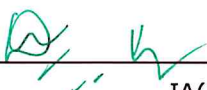
Resolved further that any other expenses arising during Liquidation incurred by the Liquidator will be borne by the Secured Financial Creditor with proper submission of bills by Liquidator.

Resolved that the consent of the CoC members be and is hereby accorded to explore for sale of Corporate Debtor as a going concern under clause (e) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 or sale of the business of the Corporate Debtor as a going concern under clause (f) thereof.

7. Since the CoC has resolved to Liquidate the Corporate Debtor in its 4th CoC meeting held on 14.06.2022 we are not inclined to interfere with the unanimous decision of CoC for Liquidation of the Corporate Debtor. Accordingly, we hereby allow the instant

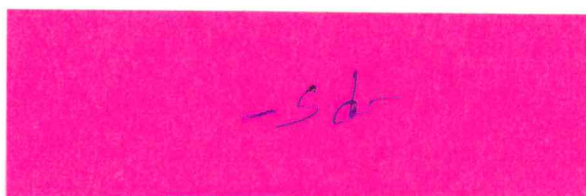
application and order to liquidate the Corporate Debtor appointing **Mr. C. RAMASUBRAMANIAM (Reg. No. IBBI/IPA-002/IP-N00052/2016-2017/10096) (email: srinidhicra@gmail.com)** with AFA valid till 13.11.2023 whose written consent in Form AA is placed at Page 49A of the application, to act as the Liquidator 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.

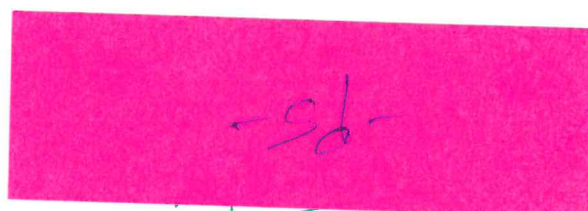


- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation 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, viz., company-in-liquidation.

8. The application in IA(IBC)/688/(CHE)/2022 in CP(IB)/36(CHE)/2021 stands **Allowed** with the aforesaid terms.



SAMEER KAKAR
MEMBER (TECHNICAL)



Dr. DEEPTI MUKESH
MEMBER (JUDICIAL)