

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

**IA No. 1671 of 2023
in
CP (IB) No. 199/7/HDB/2021**

Application u/s 54(1) of IBC, 2016 r/w Regulation 45 of Insolvency & Bankruptcy
Board of India (Liquidation) Process) Regulations, 2016

In the matter of **M/s Talsons Motors Private Limited**

FREE OF COST COPY

Mr. Rajesh Jasti
Resolution Professional for
M/s Talsons Motors Private Limited

Applicant/
Resolution Professional

Date of order: 07.05.2024



Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)
Shri Charan Singh, Hon'ble Member (Technical)

Appearance:

For Applicant: Party in person

**PER: BENCH
ORDER**

1. This application is filed under Section 33(2) of the Insolvency & Bankruptcy Code, 2016 (herein after referred to as "CODE") r/w Rule 32 and 11 of the National Company Law Tribunal Rules, 2016 by the

Resolution Professional appointed for **M/s TALSONS MOTORS PRIVATE LIMITED**, seeking initiation of liquidation of the Corporate Debtor.

2. To put it concisely, this Tribunal on 26.04.2022 admitted the Petition filed by the Financial Creditor (FC), Quantum Holding Private Limited under Sec.7 of the Insolvency and Bankruptcy Code, 2016, and ordered Corporate Insolvency Resolution Process (CIRP) by appointing Shri Sreenivasa Rao Somisetty as Interim Resolution Professional.
3. Pursuant to paper publication on 09.05.2022, inviting claims from the creditors, the IRP on receipt of the claims, collated and verified the same and filed the list of creditors with this Tribunal on 01-06-2022 and constituted the Committee of Creditors. The Report Certifying Constitution of the Committee (COC) of Creditors was filed on 01.06.2022, and complied with Regulations 17(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Subsequently, some more claims were received from the Operational Creditors and Statutory authorities subsequent to the last date as mentioned in the Form A, but within 90 days as per the Regulation 12 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Accordingly, the same were admitted and Revised list of claims was filed with this Tribunal by way of a Memo on 23-07-2022.
4. The Applicant further states that IA No.618 under Section 19(2) of IBC, 2016 for non-cooperation by the suspended directors of the CD was filed on 14-06-2022 and this Tribunal passed an Order dated 16-09-2022 directing the suspended directors of the CD to extend all possible support to complete the CIRP. Despite the same, the Suspended Directors have informed that they do not have any physical records



except the accounting transactions recorded in the computer by using the Tally software due to which the IRP was unable to prepare financial statements for the last three years.

5. It is stated that the Company has two cars and certain receivables as per the record, subject to certification by the Auditors. It is further stated that valuation was not completed within 6 months of the CIRP period.
6. As things stood thus, One of the Financial Creditors and COC member, Yes Bank Limited vide letter dated 19-10-2022, wanted to withdraw their claim and from the COC. Pursuant to the decision of Yes Bank Limited, the COC was re-constituted once again.
7. The Resolution Professional further submitted that, owing to non-co-operation from the Promoters of the Corporate Debtor in providing information or books of accounts or other relevant records in timely manner to statutory Auditor who was appointed by the COC to finalize the Financials of the last 3 years of the CD, the Resolution Professional was unable to complete the CIRP within the prescribed timelines. Therefore, it was resolved in the 6th COC meeting held on 21-10-2022, to liquidate the company at the earliest in the best interest of all the stakeholders as there were no visible business prospects for the Company in the future.

8. Pursuant to the above decision of the COC, the erstwhile resolution Professional moved IA 1413/2022 seeking liquidation of the Corporate Debtor. However, this Tribunal did not consider the Liquidation Application and on 09-02-2023, directed the RP to convene a meeting of COC to decide on the replacement of RP or Liquidator, in the event this Tribunal order for the Liquidation of the CD.

9. Complying the direction of this Tribunal as above, 7th COC meeting was convened on 2nd March, 2023 and the COC resolved for replacing RP Sreenivasa Rao Somisetty with RP Rajesh Jasti, the Applicant herein.
10. It is stated that the erstwhile RP could not complete the CIRP in time as valuers provided the Valuation reports only in November 2022 and SFA valuers provided their valuation reports based on the audit reports, in January 2023, and sought exclusion of 132 days for completion of the following actions.
- Preparation of Information Memorandum
 - Issuing Form G – Calling expression of Interest
 - Giving advertisement to sell the Cars
 - Preparation of RFRP
 - Giving advertisement to call for quotes from the prospective Resolution Applicants, to sell the Company as a going concern.

Accordingly, this Tribunal granted exclusion of 132 days vide order dated 30.03.2023.

11. It is stated that the COC in its 8th COC Meeting held on 09.06.2023 resolved to issue fresh Form-G and accordingly, Form-G was issued in Financial Express (Hyderabad and Pune Edition) and in Nava Telangana and Punya Nagari (Pune) on 10/06.2023, inviting interest from Prospective Resolution Applicants to sell the company as a Going Concern basis.

12. The last date for submission of Expression of Interest from prospective Resolution Applicants was 10-07-2023. However, the Resolution Professional did not receive any interest and the COC was apprised of the same.

13. The RP further apprised the COC that the Company has only a vehicle as asset which is valued around Rs. 30 lakhs and SBI i.e. one of the Members of COC, has exclusive charge over the said Car. The Resolution Professional further apprised the COC that only after the sale of the vehicle, the RP would be able to move an application for liquidation before this Adjudicating Authority with the approval of CoC.
14. Pursuant thereto, this Adjudicating Authority, issued oral instructions to sell the unencumbered asset (Volvo S60; Vehicle No.: TS 09 EN 0037 which was hypothecated to SBI) as per Regulation 29 of the CIRP Regulations by issuing publication in newspaper, after approval of the COC, however subject to NOC from SBI and on the condition that 56.97% of sale proceeds goes to SBI and 43.03% of the Sale Proceeds to CoC. However, SBI failed to secure the required NOC from their higher-ups.
15. The Applicant submits that as per the resolution passed in the 8th COC held on 09-06-2023 and as advised by the Hon'ble Adjudicating Authority the RP has issued the notice of e-Auction on 22nd June 2023 in Financial Express (Hyderabad) and Nava Telangana (Hyderabad) with a reserve price of Rs. 13,00,0000 /- (average of 2 valuation reports given by Registered Valuers - P&M.) However, the same did not materialize.
16. Therefore, the Resolution Professional with the approval of COC. proposed to revalue the vehicle by the Registered Valuers P & M. The RP has obtained revised valuation reports (Addendum Reports to Original Valuation reports) for the vehicles from the registered valuers – P&M for



the purpose of arriving the fair value and Liquidation value and also to determine the reserve price to be quoted for the sale of vehicle, Volvo S 60. The below are Fair Value and Liquidation Values of 2 Vehicles:

Sl No	Make	Model	Mfg Yr	P&M Valuer 1		P&M Valuer- 2	
				Fair Value	Liquidation Value	Fair Value	Liquidation Value
1	Volvo	S60 D5	2016	1000000	900000	1050000	840000
2	Volvo	XC - 90 D5	2019	4250000	2975000	3880000	3100000
		Total		5250000	3875000	4930000	3940000

17. Later RP has received interest from two prospective buyers who were willing to buy the S60 D5 Volvo car and sought approval of the COC. Out of 2 Prospective buyers, one person quoted bid price of Rs 9 Lakhs and another bidder quoted around 9.50 to 10 Lakhs.

18. Subsequently in the 10th COC meeting held on 04-10-2023, the COC has reviewed the status of the CD and came to a conclusion that the CD is no more a running company and there are no chances of revival of the business of the Corporate Debtor and that there is nothing left in the CD except a car. Further since there is no viable business prospects in the future, the COC has resolved to liquidate the corporate debtor at the earliest in the best interest of all the stakeholders. Therefore, the COC with 98.82% majority resolved to initiate liquidation against the Corporate Debtor and instructed the Resolution Professional to move an application. Thus, submitting prayed to pass order of dissolution.

19. The record reveals that since the only asset being a car, which is valued around Rs. 30 lakhs and as on date SBI is having exclusive charge over, this Tribunal vide order dated 16.02.2024, suggested the COC to work out modality to avoid the liquidation and straight away opt for dissolution



of the Corporate Debtor, by handing over the vehicle to SBI and passing appropriate resolution seeking for dissolution of the Corporate Debtor without liquidation.

20. Pursuant thereto, a memo is filed by the Resolution Professional stating that COC convened a meeting on 22.02.2024 and considering the suggestion of this Tribunal, deliberated upon the disposal of XC 90 Volvo car which according to the COC is a depreciable asset and its value gets deteriorated day by day over the delay in the process of liquidation. Further as per Liquidation Process Regulations, the SBI has exclusive right over the asset being a secured creditor and in order to avoid liquidation expenditure and delay in the process of liquidation, the COC with 95.46% voting opted to hand over the asset to SBI and to go for dissolution.

21. In the light of above facts and circumstances of the case, the only point that emerges for consideration of the Tribunal is,

Whether the Corporate Debtor can be dissolved without going through the process of liquidation?



We heard the Ld. Liquidator Mr. Rajesh Jasti and Mr Srikanth Sukhavasi, Senior Manager from HDFC Bank and perused the record.

Whether the Corporate Debtor can be dissolved without going through the process of liquidation?

23. In the meeting of the CoC held on 21.02.2024, the sole member of the CoC after considering the suggestion put forth by this Tribunal, was of the view that since the Corporate Debtor does not have any realizable assets except a car which is hypothecated to SBI and since the Company has no business, therefore the chances of resolution and/or any recovery were "Nil". It was further discussed that if the Corporate Debtor is taken to liquidation, additional money would be required to be paid by the CoC members though there will be no recovery. Hence, the CoC had recommended direct dissolution of the Corporate Debtor without liquidation as there was no point in proceeding with liquidation and then apply for dissolution of the Corporate Debtor. Accordingly, the COC with 95.46% voting passed the following resolution.

"RESOLVED THAT the consent of members of the COC be and is hereby accorded to approve the filing of memo with Hon'ble nCLT, Hyderabad Bench to the IA 1671/2023, regarding the dissolution of Corporate Debtor without going for the initiation of the process of liquidation of the Corporate Debtor, Talsons Motors Private Limited.

24. Various provisions of the Code dealing with the dissolution of the Corporate Debtor are as follows:

54-Dissolution of Corporate Debtor.

(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.

Regulation 45 of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 reads as under:-

Regulation 45: Final report prior to dissolution.

(1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor's assets have been liquidated.

(2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.

(3) The liquidator shall submit an application along with the final report and the compliance certificate in form H to the Adjudicating Authority for – (a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or (b) for the dissolution of the corporate debtor, in cases not covered under clause (a).]

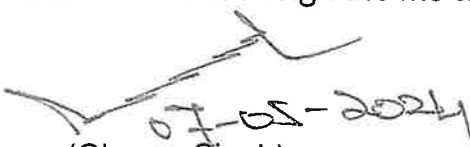
25. In the instant case, since there are no assets with the Corporate Debtor as stated by the RP and also by the COC and that there are insufficient funds to meet the liquidation cost, therefore provisions of Section 54 of the Code and also that of Regulation 14 of IBBI (Liquidation Process) Regulations, 2016, would be deemed to have been complied with.



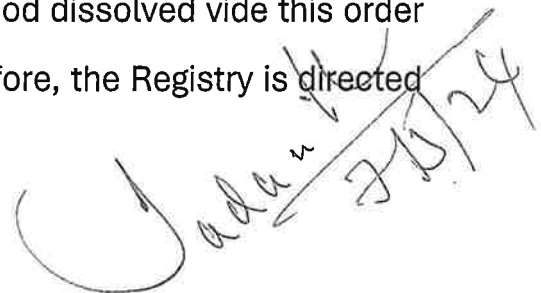
26. In view of the above facts and circumstances, this Adjudicating Authority in exercise of the powers conferred under sub-section (2) of section 54 of the Code hereby order the dissolution of the Corporate Debtor, viz., **M/s TALSONS MOTORS PRIVATE LIMITED** from the date of this Order

and the Resolution Professional stands relieved, subject to procedural compliances.

27. The Resolution Professional and the Registry are directed to serve a copy of this order upon the Registrar of Companies, Hyderabad immediately within fourteen days of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
28. Upon dissolution of the Corporate Debtor, the records of the Company which are in possession of the Resolution Professional, be handed over to the IBBI.
29. A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.
30. In terms of the above, IA No. 1671 of 2023 filed by the Resolution Professional appointed for **M/s TALSONS MOTORS PRIVATE LIMITED** (Corporate Debtor) for dissolution of the Company stands disposed of accordingly. Since the Corporate Debtor stood dissolved vide this order and no proceedings are now pending, therefore, the Registry is directed to consign the file to records.


(Charan Singh)
MEMBER (TECHNICAL)

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(Dr. N.Venkata Ramakrishna Badarinath)
MEMBER (JUDICIAL)


Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER... (P(100) No. 199/7/HDB/2021
निर्णय का तारीख
DATE OF JUDGEMENT... 7/5/24
प्रति लेखन किया गया तारीख
COPY MADE READY ON... 9/5/24