

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

IA/929/IB/2020 in IBA/1081/2019
filed under Sections 33 (1)(a), 33(2)
& 34(1) of the Insolvency and
Bankruptcy Code, 2016

In the matter of M/s. AKP Plastics Private Limited

Mr. S. Muthuraju,
Resolution Professional
M/s. AKP Plastics Private Limited
No.3, Sundaram Brothers Lay Out,
Opp. To All India Radio,
Trichy Road, Ramanathapuram,
Coimbatore-641045

... Applicant /Resolution Professional

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

For Applicant : *Shri. A.G Sathyanarayana, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 27.01.2021


This Interlocutory Application (IA) filed u/s 33 (1)(a), 33(2) & 34(1) of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Resolution Professional (in Short "RP") seeking for liquidation of the Corporate Debtor namely M/s. AKP Plastics Private Limited

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2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated on 21.11.2019 and the Applicant herein was appointed as IRP. Subsequently, the IRP caused public announcement calling for the claims from the Creditors of the Corporate Debtor by virtue of publication dated 04.12.2019. The IRP constituted committee of creditors on 27.12.2019 and in the 1st meeting of the CoC held on 03.01.2020 the sole Financial Creditors (Tamilnadu Mercantile Bank Limited) with 100% voting rights has confirmed the applicant herein to continue as the Resolution Professional. Thereafter, the RP, on the verification of books of the Corporate Debtor found that the Corporate Debtor is carrying on business of trading activities and the Corporate Debtor does not have any assets except Motor Cars. Therefore, the applicant has not appointed any valuers for valuation of the assets of the Corporate Debtor.

3. It is further submitted that in the 2nd CoC meeting held on 12.02.2020, the CoC discussed about the current status of the Corporate Debtor and it was observed that the corporate debtor is



not carrying on any business and is not fetching any income. Therefore, the COC members decided not to issue any Expression of Interest (EOI) further period of the 180 days for CIRP ended on 07.12.2020. Therefore, in the 2nd COC meeting dated 12.02.2020, the COC members resolved to liquidate the Corporate Debtor and recommended the present RP to act as a Liquidator. Accordingly, the Applicant has filed the present Application before this Authority under Section 33(2) of IBC, 2016 for the Liquidation of the Corporate Debtor.

4. The Applicant submitted that pursuant to the resolution passed in the 2nd CoC meeting dated 12.02.2019 approving the RP to act as a Liquidator of the Corporate Debtor, the RP has filed written consent letter dated 23.09.2020 giving his consent to take the assignment as liquidator.

5. In view of the above, we hereby order for liquidation of the Corporate Debtor namely **M/s. AKP Plastics Private Limited** and **Mr. Muthuraju** having [Reg No. IBBI/IPA-002/IP-N00009/2016-2017/10013] is appointed 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.
- 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

authority which governs 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., and company-in-liquidation.

6. Hence, this application IA/929/IB/2020 stands disposed of with the aforesaid terms.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

TJS

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(R. SUCHARITHA)
MEMBER (JUDICIAL)