



IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH  
KOCHI

IA (IBC) No. 444/KOB/2022

In

C.P (IB) No. 29/KOB/2021

*In the Matter of:*

Application under Section 33(1)(a) & (b), 33 (2) & 34 of the Insolvency and Bankruptcy Code, 2016 for an order of liquidation against the Corporate Debtor.

*Memo of Parties:*

**CA. M. Suresh Kumar, Resolution Professional**, having office at- No.27/9, Nivedh Vikas, Pankaja Mill Road, Puliyakulam, Coimbatore 641 045.

... Applicant/Resolution Professional

-In-

*In the Matter of:*

**Tip Top Furniture Private Limited**, having its Registered Office at: 4/704 FF, N H Kottakal, Edarikkode P.C, Malappuram, Kerala- 676 501.

...Corporate Debtor

*Coram:*

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

*Appearances (through video conference):*

For the Applicant/RP : Mr. A. G. Satyanarayana, Adv

For Suspended Board of Directors : Ms. Anchala. C

**Order reserved on: 15.12.2022**  
**Order pronounced on: 08.02.2023**

**ORDER**

1. The present Application has been filed by, CA. M. Suresh Kumar, Resolution Professional of Corporate Debtor M/s Tip Top Furniture Private Limited. Corporate Insolvency Resolution Process (CIRP) against



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the Corporate Debtor under section 7 of IBC 2016 was admitted by this Adjudicating Authority on 21.12.2021 and Mr. C. J Davis was appointed as an Interim Resolution Professional. The IRP had in accordance with the IBC, 2016 and allied regulations effected public announcement and invited claims from all creditors on 25.12.2021 in one English Newspaper. "Business Line" and in one Malayalam Newspaper, "Mathrubhumi" which are known for having wide circulation at the location of the registered office and showroom at Kollam of the Corporate Debtor.

2. It is stated that in the 1<sup>st</sup> Committee of Creditors (COC) meeting held on 21.01.2022, the Committee of Creditors (COC) resolved to replace the IRP, however, the same was rejected by this Tribunal vide order dated 09.02.2022 in an application filed in IA(IBC)/26/KOB/2022. The same was challenged before the Hon'ble High Court of Kerala in a Writ Petition No.7077 of 2022 wherein the Hon'ble High Court was pleased to pass an stay order on 03.03.2022 and the same was dismissed vide order Dated 17.03.2022. Subsequent to the above, the CoC member has filed an appeal before the Hon'ble NCLAT in CA AT (CH)(INS) No. 116 of 2022 challenging the RP appointment order and the same was allowed vide order dt.02.08.2022 by directing this Tribunal to consider the appointment of the applicant herein as RP however the same was confirmed by this Hon'ble Tribunal order dated 18.08.2022.
3. It is further stated that the COC in its 2<sup>nd</sup> meeting held on 03.03.2022, the IRP has placed Draft EoI as one of the agenda wherein the CoC has approved to issue EoI viz. Form-G and the same was published by the IRP on 06.03.2022. Only suspended directors responded to the EoI, thus the CoC recorded that information at its third meeting, which was placed on 29.03.2022. Subsequent to the above, the CoC has approved to issue another Form-G in its 5<sup>th</sup> CoC meeting held on 07.06.2022 and the same was published by the IRP on 07.06.2022 in one English Newspaper. "Business



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Line". and in one Malayalam Newspaper, "Mathrubhumi" circulating in Malappuram and Kollam region. Further the CoC has also approved to seek extension of another 90 days of CIRP timeline to resolve the CD in the interest of justice. Accordingly, an application in IA/144/KOB/2022 has been allowed by this Tribunal vide order dated 28.06.2022 by extending the CIRP period up to 17.09.2022.

4. The learned counsel for the applicant submitted that in response to the Form-G the IRP has received only resolution plan from the promoter and the same was discussed in the 6<sup>th</sup> CoC meeting dt.13.09.2022 wherein the CoC after detailed discussions on the plan submitted by the promoters has suggested them to submit the revised plan within a weeks' time. The revised resolution plan was received on 17.09.2022 and the same was discussed on the 7<sup>th</sup> CoC meeting dated 29.09.2022. the CoC members taking note of the same have requested time to get their internal approval on the matter.
5. It is further submitted that the CoC in its 8<sup>th</sup> CoC meeting dated 26.10.2022, the CoC members have rejected the revised resolution plan submitted by the promoters for the main reason that the plan submitted by the promoters is a comprehensive plan for whole exposure as availed by them in the name of individuals/ firms. corporate guarantee which is not viable as per I & B Code 2016 and also the plan value is lower than the liquidation value of all the assets put together (including individual assets pledged to bank as per bank valuation) and subsequently recommended for liquidation of the CD by passing an unanimous resolution. Further, the CoC has recommended the Applicant/ RP to be appointed as Liquidator of the CD in accordance with the Code with the approval of CoC holding 100% voting rights and also the RP has given his written consent to act as a liquidator of the CD.



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6. The Applicant has also filed the compliance certificate in Form H under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
7. In the result the **M/s Tip Top Furniture Private Limited**, Corporate Debtor is ordered to be liquidated.
8. The applicant **CA. M. Suresh Kumar**, Resolution Professional of Corporate Debtor, **M/s Tip Top Furniture Private Limited**, having his office at No.27/9, Nivedh Vikas, Pankaja Mill Road, Puliyakulam, Coimbatore 641 045 has given a written consent to act as a Liquidator as required under Section 31 A of IBC, 2016. Hence, Mr. **M. Suresh Kumar** with Registration No: IBBI/IPA-001/IP-P00110/2017-2018/10217 is appointed as liquidator of Corporate Debtor **M/s Tip Top Furniture Private Limited**.
9. The Liquidator is directed to forthwith take into his custody all the assets, Properties, and actionable claims of the corporate debtor and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
10. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
11. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one morning regional language newspapers.
12. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with Section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The



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personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.

13. On initiation of the Liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor, save and except the liberty to the liquidator to institute a suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
14. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except to the extent of the business of the Corporate Debtor continued during the liquidation process by the liquidator.
15. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala, within whose jurisdiction the Corporate Debtor is registered.
16. The fee of Liquidator to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.
17. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.
18. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps,



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19. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD  
Date: 2023.02.08 15:50:53 +05'30'

**Satya Ranjan Prasad**  
**Member (Technical)**

PANDIAN MOHAN RAJ Digitally signed by PANDIAN  
MOHAN RAJ  
Date: 2023.02.08 14:44:45 +05'30'

**P. Mohan Raj**  
**Member (Judicial)**

Signed on this 08<sup>th</sup> day of February, 2022.

Cimy