

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV (Special Bench)**

IA-3934/2023 in CP(IB)-170(MB)/2023

Under Section 33(1)(a) of Insolvency &
Bankruptcy Code, 2016.

Prajakta Menezes

...Interim Resolution
Professional/Applicant

In the matter of

Equiptrans Logistics Private Limited

...Financial Creditor

Vs.

Acyuta Services Private Limited

(Formerly known as Essar Services India Pvt.
Ltd.)

...Corporate Debtor

Order pronounced on : **10.11.2023**

Coram:

Ms. Madhu Sinha
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP

: Ms. Geeta Toraskar, Advocate.

ORDER

Per: Kishore Vemulapalli, Member (J)

1. This is an application filed by Ms. Prajakta Menezes, Interim Resolution Professional of the Corporate Debtor on 24.08.2023, seeking initiation of

liquidation of *Acyuta Services Private Limited* (Formerly known as *Essar Services India Pvt. Ltd.*), under Section 33(1)(a) r/w Section 60(5) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).

2. **Brief facts of the Application are as follows:**

2.1 This Tribunal vide an order dated 16.05.2023 in Company Petition bearing C.P.(IB)-170(MB)/2023 filed under Section 7 of the Code, by Equiptrans Logistics Private Limited (hereinafter referred to as the “Financial Creditor”) is admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against Acyuta Services Private Limited (Formerly known as Essar Services India Pvt. Ltd.) (hereinafter called as the “Corporate Debtor”). The Applicant was appointed as Interim Resolution Professional by this Tribunal vide the same admission order dated 16.05.2023.

2.2 The Applicant submits that she made public announcement in Form A on 18.05.2023 in two local newspapers viz. ‘*The Free Press Journal*’ (English) and ‘*Navshakti*’ (Marathi) of Mumbai edition.

2.3 The Applicant further submits that the First CoC meeting was held on 16.06.2023 wherein a resolution passed for appointment of two registered valuers for the determination of fair value and liquidation value of the assets of the Corporate Debtor. The IRP had received only two claims from Financial Creditors, out of which one was pending for documents verification, therefore, only single member i.e. the main Petitioner viz. Equiptrans Logistics Pvt. Ltd. is the sole CoC member.

- 2.4 The Applicant further submits that the Second CoC meeting was held on 11.07.2023 in which the IRP informed the CoC about the requirement of issuance of Form G for inviting Expression of Interests (EoIs) by 15.07.2023 for which approval of the CoC is required with eligibility criteria for inviting Prospective Resolution Applicants (PRAs) as per the provisions of the IBC, 2016. At this point, the CoC opined that since there being no business operations, no employees in the company and absence of assets / intangible assets in the company, the chances of getting EoIs from the PRAs seems very minimal and hence it is advisable to opt for early liquidation of the Corporate Debtor and the same would save cost relating to the process. The CoC further advised the IRP to make necessary application before the NCLT in terms of Section 33(2) of the Code.
- 2.5 The Applicant further submits that the Third CoC meeting was held on 11.08.2023 wherein the Applicant informed the CoC members that a claim of ₹2,27,86,519/- was received from the State Tax Authority and the same is accepted. Therefore, they are also eligible to participate in the CoC meeting. In the said meeting, CoC approved appointment of Transaction Auditor to report transactions of the Corporate Debtor for a period of two years commencing from May 2021 to 16th May 2023. Further, in the said meeting the CoC opined that since there is no business in the Corporate Debtor, the sale of going concern may not be feasible and further discussion on the manner of sale shall be taken into consideration during the liquidation process. The CoC members further stated that the Corporate Debtor is to be liquidated at an early stage as there are no business operations, no assets

including intangible assets keeping in mind the current situation with no probability of resolution. After discussion, the CoC members approved liquidation of the Corporate Debtor and the following resolution was passed with 100% voting:

“RESOLVED THAT pursuant to section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, consent of the members of the Committee of Creditors be and is hereby accorded to initiate liquidation process of the Corporate Debtor.”

“RESOLVED FURTHER THAT Mrs. Prajakta Menezes be and is hereby authorised to file an application under Section 33(2) of the Code with National Company Law Tribunal, Mumbai Bench and to take necessary actions to give effect to the aforesaid resolution.”

2.6 The Applicant further submits that, she informed the CoC that she is not keen to continue as the Liquidator of the Corporate Debtor, therefore, the CoC proposed the name of “Renaissance Insolvency Resolution Professionals Private Limited” having registration No. IBBI/IPE-0093/IPA-1/2022-23/50034 as the Liquidator of the Corporate Debtor and the CoC members unanimously approved the same by passing the following resolution with 100% voting:

“RESOLVED THAT the consent of the members be and is hereby accorded to appoint Renaissance Insolvency Resolution Professionals Private Limited as Liquidator of the Company and be paid a fee of INR 10,00,000/- plus GST plus out of pocket expenses if any”.

“RESOLVED FURTHER THAT Mrs. Prajakta Menezes be and is hereby authorize to make necessary application for Liquidation of the Corporate Debtor under section 33 of the Insolvency and Bankruptcy Code, 2016 and for the appointment of Liquidator in the matter of Acyuta Service Private

Limited and to do all such act, deeds and things to give effect to the aforesaid resolution."

"FURTHER RESOLVED THAT pursuant to Regulation 39B Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and other relevant provisions of the Insolvency and Bankruptcy Code, 2016 the Committee of Creditors hereby approved the estimate Liquidation Cost of Rs. 11,02,000/- plus GST".

3. Considering the facts and circumstances as submitted by the Applicant in the Application and Counsel appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated even without publishing Form G inviting EoI as the company does not have any assets. Accordingly, this Bench orders that -
 - a. The Corporate Debtor viz. Acyuta Services Private Limited (Formerly known as Essar Services India Pvt. Ltd.) is 'under liquidation' w.e.f. today.
 - b. M/s. Renascence Insolvency Resolution Professionals Private Limited" having IBBI registration No.: IBBI/IPE-0093/IPA-1/2022-23/50034 is hereby appointed as Liquidator as provided under Section 34(1) of the Code to conduct the liquidation process of the Corporate Debtor.
 - c. The Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
 - d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation

process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The Liquidator to send this order to the RoC under which this Company has been registered.

- e. The Liquidator appointed under Section 34(1) of the Code, will have all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, hereafter ceased to exist and henceforth be vested with the Liquidator.
- f. The Liquidator is directed to appoint two valuers and obtain an average liquidation value under Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [IBBI(IRPCP)] for determination of Liquidation value of the assets of the Corporate Debtor in accordance with Regulation 35 of IBBI(IRPCP).
- g. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. On having liquidation process initiated, 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 suit or other legal proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- i. The Liquidator shall take necessary Legal Action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate

Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s. 33(5) of the Code.

- j. This liquidation order u/s 33(7) 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.
 - k. The Applicant/present IRP is directed to hand over all important documents / charge of the Corporate Debtor to the Liquidator appointed. The CoC is directed to clear all dues of the outgoing IRP.
 - l. Moratorium declared vide Order dated 16.05.2023 in CP(IB)-170(MB)/2023, henceforth ceased to exist.
 - m. The Liquidator shall submit the progress report of liquidation periodically.
4. With the above directions, the IA-3934/2023 in CP(IB)-170(MB)/2023 filed u/s 33(1)(a) by the Applicant is hereby **allowed** and **disposed** of.

Sd/-
MADHU SINHA
MEMBER (TECHNICAL)

Sd/-
KISHORE VEMULAPALLI
MEMBER (JUDICIAL)

10.11.2023/pvs