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**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

IA/(IBC)/1457/CHE/2022 in IBA/587/2020

(Filed under Section 33(1) of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***Kikani International Private Limited***

S. Kangayan,

(Resolution Professional of
Kikani International Pvt Limited)
Plot No.81, Phase I, 3rd Street, Dollars Colony,
Vengambakkam, Tambaram East,
Chennai – 600 127

... Applicant /Resolution Professional

Order Pronounced on 01 May, 2023

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant : *Anant Merathia, Advocate*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

This is an application filed under Section 33(1) of the Insolvency and Bankruptcy Code, 2016:

- (i) *That the Bench may pass orders as to liquidate the Corporate Debtor as per Section 33(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;*

- (ii) *To appoint the Applicant/Resolution Professional herein, Mr.S Kangayan or any other Insolvency Professional as per the list recommended by the Insolvency and Bankruptcy Board of India as the Liquidator of the Corporate Debtor as this Hon'ble Tribunal deems fit and proper; and*
- (iii) *To pass such other orders which may be deems fit and proper in the interest of justice.*

2. It is seen that vide order dated 10.01.2022 this Tribunal admitted the application in IBA/587/2020 filed under Section 9 of the IBC, 2016 by the Operational Creditor namely M/s. KRT Mills Pvt Limited and one Mr. Arpit Kothari was appointed as the Interim Resolution Professional.

3. It is seen that on 14.01.2022 the said IRP publish the public announcement.

4. It is seen that vide order dated 21.04.2022 in IA/234/2022, on the request of the Committee of Creditors the Applicant herein was appointed as the Resolution Professional of the Corporate Debtor.

5. Upon approval from the Committee of Creditors, the RP published the Form-G on 19.05.2022.

6. The RP thereafter filed an application bearing application number IA/999/2022 which was dismissed by this Tribunal on 31.10.2022 as



there was no resolution plan which was under consideration of the Committee of the Creditors and the IA has become infructuous.

7. It is seen from the application that **Form-H** has been filed by the Ld. Liquidator which is appended at Page Nos.73 to 79 of the application typeset.

8. It is also seen in paragraph xvi of the application wherein it has been stated that the only option available is pray to this Tribunal to order to initiate liquidation of the Corporate Debtor as maintained under provisions of IBC 2016.

9. Heard the Counsel for the Applicant no resolution plan was placed before the CoC for its approval the 180th day of CIRP concluded on 08.07.2022.

10. At this juncture, it is relevant to point out Section 33 of the liquidation as follows:

Initiation of Liquidation:

1) Where the Adjudicating Authority, -

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than sixty-six per cent. of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

[Explanation. For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under of sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]

11. The proposed Liquidator, **Mr.S.Kangayan** has also filed his written consent to act as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorization for Assignment (**AFA**) for the RP is valid up to **08.11.2023**.

12. Thus, as a consequence thereof, the Corporate Debtor is required to be ordered for liquidation as per Section 33(1)(a) of IBC, 2016. We hereby appoint **Mr.S.Kangayan**, with (**Reg. No: IBBI/IPA-002/IP-N00866/2019-2020/12770 and e-mail Id: kangayan.s@gmail.com**) 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.

13. Accordingly, IA/1457/CHE/2022 filed for Liquidation of the Corporate Debtor stands **allowed**.



SAMEER KAKAR
MEMBER (TECHNICAL)



JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT