



NATIONAL COMPANY LAW TRIBUNAL  
COURT-V, MUMBAI BENCH

109. IA(LIQ.)/10/2024 IN C.P. (IB)/492(MB)2018

IN THE MATTER OF

Prime Enterprise

VS

Awate Engineering Pvt Ltd

Section 9 of the Insolvency & Bankruptcy Code, 2016

**Order Delivered on 05.03.2024**

CORAM:

MS. REETA KOHLI  
MEMBER (J)

MS. MADHU SINHA  
MEMBER (T)

**Appearance through VC/Physical/Hybrid Mode:**

Resolution Professional: RP Uday Sakrikar (VC)

For the Applicant: Adv. Narayan L. Khamkar (VC)

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**ORDER**

**I.A. 10/2024**

1. The present application is filed for the following relief:

- I. *That this application be allowed.*
- II. *That the Hon'ble Tribunal kindly be pass the detailed order for the liquidation of the Corporate Debtor in accordance with the operative order, dated 11.01.2023 below IA No. 1286/2021.*
- III. *That the present IA be scheduled for a hearing via video conferencing, and a date be fixed accordingly.*
- IV. *That this Hon'ble Tribunal pass any further order or orders it deems fit and proper, considering the facts and circumstances of the case.*



2. The Ld. Counsel for the Applicant has referred to the order dated 11.01.2023 vide which the I.A. 1286/2021 seeking liquidation was allowed by the Bench comprising of Sh. Kuldip Kumar Kareer, Member (Judicial) and Smt. Anuradha Sanjay Bhatia, Member (Technical). The order dated 11.01.2023 is reproduced hereunder:

*“The above application is filed seeking liquidation of the Corporate Debtor. Accordingly, the above I.A. is allowed. Detailed order will follow.”*

3. The Ld. Counsel for the Applicant has submitted that despite his I.A. 1286/2021 having been allowed, he was unable to get the detailed order of liquidation. The Ld. Counsel submits that the said order was never uploaded.
4. On perusal of the file it has come to our notice that the detailed order in the above said I.A. seems to have escape the attention of the Hon’ble Court and in fact inadvertently the same was never issued.
5. In these peculiar circumstances particularly keeping in view the fact that the I.A. was allowed on 11.01.2023 and the Applicant since then has been consistently making efforts to get the order which in fact was not uploaded/not passed. In view of the uncalled situation we deem it appropriate to pass the detailed order in terms of the order dated 11.01.2023 so as to safeguard the interest of the Applicant. We pass the detailed order as follows:



- I. The Operational Creditor has filed a petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 in respect of the operational debt amounting to Rs. 8,82,867/- due from the Corporate Debtor.
- II. Vide order dated 20.03.2020, the Hon'ble Tribunal was pleased to admit the said petition and allow the Operational Creditor to initiate the CIRP against the Corporate Debtor. Mr. Laxman D. Pawar was appointed as an Interim Resolution Professional to carry out the functions as mentioned under Insolvency and Bankruptcy Code, 2016.
- III. In the 1<sup>st</sup> COC meeting held on 09.06.2020 it was unanimously decided to replace the Interim Resolution Professional by new Resolution Professional Mr. Uday Sakrikar to handle the affairs of the Corporate Debtor and a necessary resolution was passed. The same was allowed by this Hon'ble Tribunal vide order dated 06.08.2020 and Mr. Uday Sakrikar was appointed as a Resolution Professional in the matter.
- IV. The Resolution Professional filed an I.A. for extension of CIRP period by 90 days and the same was allowed by this Hon'ble Tribunal vide order dated 09.10.2020.
- V. The 3<sup>rd</sup> COC meeting was held on 10.09.2020, the RP informed the members of the COC that the list of requirements was handed over to Mr. Awate, the representative of CD. However, the said



representative had informed the RP that the records of the Corporate Debtor had been stolen and he had given the copy of the FIR of the same. Since earlier, the COC had not approved the appointment of Registered Valuer and Transaction Auditor proposed by the IRP, this Resolution Professional took the approval of COC and appointed Registered Valuer and Transaction Auditor.

- VI. The Resolution Professional filed an I.A. 1518/2020 for extension for completion of CIRP process and vide order dated 09.10.2020 the Hon'ble Tribunal allowed the extension application.
- VII. The Resolution Professional published Form G in Financial Express and in Navrashtra (Marathi) on 19.01.2021. Accordingly, 3 parties had shown their interest. Out of these only one party i.e. M/s. Pyrotech Engineering, a Proprietary Firm through its Proprietor Ajit Damodar Yadav fromm Belgaum Village was interested to submit resolution plan. But due to COVID-19 Pandemic he could not start the due diligence and therefore the said party sought time for conducting due diligence for submission of Resolution Plan. Hence, the Resolution Professional tried for getting Resolution Plan.
- VIII. But due to non-receipt of Resolution Plan from the Resolution Applicant, the Committee of Creditors had passed a resolution in the 9<sup>th</sup> COC meeting held on 03.06.2021 to initiate liquidation



proceedings against the Corporate Debtor. The COC further resolved to appoint Mr. CA Fanendra Hrakchand Munot (IBBI/IPA-001/IP-0515/2017-18/10916) to act as a liquidator and Mr. CA Fanendra Hrakchand had also given his consent to act as a Liquidator.

6. After perusing the material available on record, it is observed that the Applicant had unanimously decided to liquidate the Corporate Debtor and requested to appoint liquidator as suggested. This bench, therefore allowed the above Interlocutory Application Number 1286/2021 and passes the following:

### **ORDER**

The above I.A. No. 1286/2021 is allowed, and the Corporate Debtor Awate Engineering Private Limited is ordered to be liquidated.

- a. **CA Fanendra Hrakchand Munot** (IBBI Registration No. "IBBI/IPA-001/IP-0515/2017-18/10916" having address: 6<sup>th</sup> Floor, Mafatlal House Building, H T Parekh Marg, Backbay Reclamation, Mumbai-400020, Email Id: fhmunot@gmail.com is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- b. That the Liquidator for the conduct of Liquidation proceedings would be entitled to a remuneration according to Liquidation fees (B) As per Regulation 4 of the IBBI (Liquidation Process) Regulation 2016.
- c. 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.

- d. 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.
- e. That the Corporate Debtor is to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a further direction to the Liquidator to send this order to the ROC under which this Corporate Debtor has been registered.
- f. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth shall vest with the Liquidator.
- g. That 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. That 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 granted to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- i. 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.

- j. Registry is directed to communicate this order to the Liquidator.

With the above directions, this application i.e. **I.A. No. 1286/2021** is hereby **allowed and disposed of.**

Sd/-  
MADHU SINHA  
Member (Technical)

Shubham

Sd/-  
REETA KOHLI  
Member (Judicial)