

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

**IA/1228/IB/2020** in IBA/42/2020

*(filed under Section 33 (1)(a), 33(2) and 34(1) of the Insolvency and  
Bankruptcy Code, 2016)*

In the matter of ***M/s. Abra Motors Private Limited***

**CA S. Prabhu**

Resolution Professional of  
M/s. Abra Motors Private Limited  
M/s. SPP & Co. Chartered Accountants,  
No. 27/9, Nivedh Vikas, Pankaja Mill Road,  
Puliyakulam, Coimbatore – 641 045

*... Applicant /Resolution Professional*

*Order Pronounced on 16<sup>th</sup> April 2021*

CORAM :

**R. VARADHARAJAN, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Applicant : *Akshita, Advocate*

**ORDER**

***Per:* ANIL KUMAR B, MEMBER (TECHNICAL)**

1. This is an application filed under Section 33(1)(a), 33(2) and 34(1) of the Insolvency and Bankruptcy Code 2016 (in short 'IBC, 2016') seeking relief as follows:

- (i) Pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in Section 33(1)(a) of Chapter III of IBC, 2016.

- (ii) Issue a Public Announcement stating that the Corporate Debtor is in Liquidation
- (iii) Notify such order to the Authority with which the Corporate Debtor is registered, the Registrar of Companies, Tamil Nadu
- (iv) To appoint the Interim Resolution Professional, Mr. CA S. Prabhu, as the Liquidator of the Corporate Debtor.
- (v) Pass such further or other orders as may deem fit and proper in the facts and circumstances of the case and thus render justice.
- (ii) and pass such other orders as deem fit and proper in the given circumstances of the case in the interest of justice.

2. In Section 9 application filed by the Operational Creditor against the Corporate Debtor viz., Abra Motors Private Limited, this Tribunal vide order dated 08.05.2020 initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor and appointed the Applicant herein as Interim Resolution Professional (IRP).

3. It is averred in the application that pursuant to the Applicant being appointed as IRP, he caused Public Notice in Form-A and invited claims in accordance with the provisions of IBC, 2016. Thereafter, it is submitted that the IRP has constituted the Committee of Creditors (CoC) and the 1<sup>st</sup> Meeting of the CoC was held virtually on

03.08.2020 and the sole Financial Creditor along with the promoter / suspended director was present. It was submitted that in the first meeting of the CoC itself it was taken note that the Corporate Debtor was not in operation and there is no scope for business continuity and revival and further there was no movable and immovable assets of the Corporate Debtor other than the Bank balance and hence a Valuer was not appointed and accordingly, the Financial Creditor has proposed to pass a resolution directly to liquidate the Corporate Debtor and to that effect, the following Resolution was passed;

“RESOLVED THAT the business of the Corporate Debtor is in-operative and there is no scope of revival / resolution and hence the Committee of Creditors unanimously decided to Liquidate the Corporate Debtor subject to the approval of the Hon’ble National Company Law Tribunal, Chennai under Section 33 of IBC, 2016

“RESOLVED FURTHER that, subject to the approval of the Hon’ble NCLT, the current IRP, CA S. Prabhu be appointed as the Liquidator of the Corporate Debtor to manage the Liquidation process of the Corporate Debtor and the Liquidator fees be paid on mutually agreed basis along with applicable taxes.

4. Thereafter, it is seen that the 2<sup>nd</sup> CoC meeting was convened on 08.03.2021 through video conference and the remuneration which was payable to the Liquidator was fixed by the CoC and that the CoC has passed the following Resolution;

“RESOLVED THAT under Regulation 39D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Consolidated fee payable to the Liquidator for handling the entire process of liquidation (from order of liquidation to complete dissolution of the company) shall be Rs.3,00,000/- plus applicable taxes.”

5. Since, in the 1<sup>st</sup> CoC meeting held on 03.08.2020, the Committee of Creditors has deliberated about the current affairs of the Corporate Debtor by taking into consideration that there are no movable or immovable assets in relation to the Corporate Debtor and also keeping in view of the fact that the Corporate Debtor is not running its business and based on its commercial wisdom has decided to liquidate the Corporate Debtor, by taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to the Application from the Promoters of the Corporate Debtor and also guided by the decision of the Hon'ble Supreme Court in the matter of **Mr. K. Sasidharan –Vs– Indian Overseas Bank (2019) SCC OnLine SC 257** this Tribunal orders for the liquidation of the Corporate Debtor.

6. It is also seen from the records that the Applicant herein has accorded his written consent in Form AA to act as the Liquidator of the Corporate Debtor. In the circumstances, **CA S. Prabhu**, IBBI/IPA-001/IP-P01275/2018-2019/11948, 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 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, viz., company-in-liquidation.

7. The application IA/1228/IB/2020 stands **disposed of** with the aforesaid terms.

-Sd-

**ANIL KUMAR B**  
MEMBER (TECHNICAL)

-Sd-

**R. VARADHARAJAN**  
MEMBER (JUDICIAL)

*Raymond*