



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

**ITEM No. 201**

**IA/670(AHM)2022 in CP(IB) No. 211 of 2020**

**Order under Section 33 r.w 34 IBC, 2016**

**IN THE MATTER OF:**

Sunil Kumar RP of Archon Engicon Ltd. **.....Applicant**

V/s

Committee of Creditors of Sunil Kumar RP of  
Archon Engicon Ltd. Through State Bank of India **.....Respondents**

**Order delivered on: 20/02/2023**

**Coram:**

Dr.Madan B. Gosavi, Hon'ble Member(J)

Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

**-SD-**

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

**-SD-**

**DR. MADAN B GOSAVI  
MEMBER (JUDICIAL)**

Rajeev Kr. Sen/Stenographer



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-1**

**IA/670(AHM)2022 in CP(IB) No. 211 of 2020**

*[Application under Section 33 read with 34 of the Insolvency and Bankruptcy Code, 2016]*

**In the Matter of:**

**Mr. Sunil Kumar Kabra,**

Resolution Professional of

Archon Engicon Limited,

Having its address at:

301, Reegus Business Centre,

New Citylight Road,

Above Mercedes Benz Showroom,

Bharthana-Vesu, Surat-395007.

**....Applicant**

**Versus**

**1. Committee of Creditors of**

Archon Engicon Limited

Through its Lead Bank

State Bank of India,

Having its address at:

SAM (Stressed Asset Management) Branch,

Paramsiddhi Complex, 2<sup>nd</sup> Floor,

Ellisbridge, Ahmedabad-380006.

**2. Suspended Management of**

Archon Engicon Limited

Through Mr. Chandrashekhar Panchal,

Having its address at:



No. 14, Unique Park Society,  
Opp. ISRO, Satellite,  
Ahmedabad-380015.

....Respondents

**In the Matter of:**

**CP(IB) No. 211 of 2020**

*[An application under section 7 of the Insolvency and Bankruptcy Code, 2016]*

State Bank of India

....Financial Creditor

Versus

Archon Engicon Limited

....Corporate Debtor

**Order Pronounced on: 20.02.2023**

**Coram: DR. MADAN B. GOSAVI, MEMBER (J)  
KAUSHALENDRA KUMAR SINGH, MEMBER (T)**

**Appearance:**

For the Applicant : Mr. Navin Pahwa, Sr. Adv. a.w. Mr. Ravi Pahwa, Ld.  
Adv.

**ORDER**

1. The instant application is filed by Mr. Sunil Kumar Kabra- the Resolution Professional (“**RP**”) of the Corporate Debtor - M/s. Archon Engicon Limited under section 33 read with section 34 of the Insolvency and Bankruptcy Code, 2016 (“**IBC, 2016**”) for liquidation of the Corporate Debtor- M/s. Archon Engicon Limited.

2. Learned Senior Counsel for the Applicant appeared and made the averments which are summarised as under:



I. This Adjudicating Authority by its order dated 07.09.2021 admitted the Corporate Debtor in the Corporate Insolvency Resolution Process (“**CIRP**”) in an application filed by the Financial Creditor – State Bank of India under section 7 of the IBC, 2016. Mr. Parthiv Parikh (the Applicant herein) was appointed as Interim Resolution Professional (“**IRP**”).

II. The IRP made a public announcement in Form-A in two newspapers i.e., “Financial Express” in English and “Divya Bhaskar” in Gujarati on 15.09.2021. Thereafter, the IRP collated the claims and constituted the Committee of Creditors (“CoC”) on 12.10.2021 comprising of the following members:

- (i) State Bank of India, having 41.53% voting share
- (ii) IDBI Bank Ltd., having 19.54% voting share
- (iii) Bank of India, having 14.78% voting share
- (iv) Bank of Baroda, having 13.27% voting share
- (v) Union Bank of India, having 8.06% voting share
- (vi) Initec Capital Ltd., having 0.76% voting share
- (vii) Paisalo Digital Ltd., having 0.11% voting share, and
- (viii) IFCI Factors Ltd., having 1.95% voting share.

III. The first meeting of the CoC was held on 12.10.2021 wherein the CoC unanimously decided to replace the IRP with Mr. Sunil Kumar Kabta - the Applicant herein to act as the Resolution Professional. This Adjudicating Authority by its order dated 24.11.2021 in IA No. 781 of 2021 appointed Mr. Sunil Kumar Kabra to act as the RP. The RP published Form-G on 27.11.2021 in “Financial Express” all India Edition and “Divya Bhaskar”, in the Gujarati Edition wherein the last date for submission of Expression of Interest (“EoI”) was 20.12.2021.

IV. In the 4<sup>th</sup> meeting of the CoC dated on 15.12.2021, the RP appraised the CoC that he did not receive EoI from any of the parties, therefore, he proposed to republish Form-G to extend the timeline for submission of EoI by 10 days. The CoC suggested the RP to republish



Form-G in two newspapers, namely, “Business Standard” in English Edition having circulation all over India, and “Sandesh”, in Gujarati Edition having circulation in Ahmedabad. The said Form-G was re-published on 25.12.2021.

V. In the 7<sup>th</sup> CoC meeting dated 19.02.2022, the RP appraised the CoC that the initial period of 180 days in CIRP of Corporate Debtor will be completed on 13.03.2022. As there are five (5) Prospective Resolution Applicants (“**PRAs**”), an application for extension CIRP by 90 days is required to be filed. This Adjudicating Authority by its order dated 28.03.2022 in IA/272(AHM)2022 in CP(IB) 211 of 2020 extended the CIRP period for 90 days from 13.03.2022.

VI. The 9<sup>th</sup> meeting of the CoC was held on 23.03.2022 wherein the CoC called all five (5) Resolution Applicants viz. (i) M/s. Vishal Engineers and Galvanisers Private Limited, (ii) Mrs. Chetna Asit Shah, (iii) M/s. Zaveri & Company Private Limited, (iv) M/s. Khandwala Finstock Private Limited, and (v) Mr. Rajnikant Prabhudas Mandavia to give a brief presentation on their prospective Resolution Plans.

VII. In the 10<sup>th</sup> meeting CoC dated 28.03.2022, the CoC suggested the RP to ask the Resolution Applicants to submit their financial proposal through e-mail.

VIII. In the 11<sup>th</sup> CoC meeting dated 12.04.2022, the RP appraised the members of the CoC that as per discussion held in the 10<sup>th</sup> meeting, the RP received a financial proposal from four Resolution Applicants viz. (i) M/s. Vishal Engineers and Galvanisers Private Limited, (ii) Mrs. Chetna Asit Shah, (iii) M/s. Zaveri & Company Private Limited, and (iv) Mr. Rajnikant Prabhudas Mandavia.

IX. In the 12<sup>th</sup> CoC meeting dated 12.05.2022, the RP appraised the members of the CoC that one of the Resolution Applicants Viz. M/s. Khandwala Finstock Private Limited vide e-mail dated 05.05.2022 has withdrawn the Resolution Plan. However, he has received four Resolution Plans from all four Resolution Applicants.

X. In the 13<sup>th</sup> CoC meeting dated 07.05.2022, the RP appraised the member of the CoC that he has received revised modified Resolution



Plans from all the Resolution Applicants and the same has been shared with the members of the CoC. Thereafter, the CoC decided to keep all Resolution Plans for e-voting.

XI. In the 14<sup>th</sup> meeting of the CoC dated 25.05.2022, the CoC resolved to file an application for an extension of 60 days beyond 270 days. However, this Adjudicating Authority by its order dated 05.07.2022 in IA 494 of 2022 granted the exclusion of 42 days (on an affidavit filed by the RP requesting the exclusion of 42 days). The e-voting of the Resolution Plan was commenced on 07.06.2022 and the same was concluded on 19.07.2022. As per the e-voting results declared on 19.07.2022, none of the Resolution Plans received the requisite votes as required for approval of the Resolution Plan.

XII. In the 15<sup>th</sup> meeting of the CoC dated 19.07.2022, the RP informed the members of the CoC that no plan received the requisite votes. The RP further informed the CoC that as per Regulation 39(3B) of CIRP Regulations, 2016 when none of the Resolution Plans received the requisite votes, the CoC will again vote on the Resolution Plan which has received the highest votes. Hence, the Resolution Plan submitted by Mr. Rajnikant Prabhudas Mandavia which had received the highest votes of 47.69% from the CoC, was put for e-voting again from 22.07.2022 to 25.07.2022. The result of e-voting was declared on 25.07.2022. But again the Resolution Plan of Mr. Rajnikant Prabhudas Mandavia received only 47.70% of the voting which did not meet the requisite voting percentage. Hence, the CoC with 98.04% voting rights approved the resolution for the liquidation of the Corporate Debtor and also approved the estimated liquidation cost of Rs. 17,50,000/- or whatever incurred on the actual basis, as per Regulation 39B of IBBI (CIRP) Regulations, 2016. The said expenses will be met out from the available funds of the Corporate Debtor and in case of any shortfall, the same shall be paid by the Financial Creditors in proportion to their respective voting share. The said resolution i.e, Resolution 2B was passed by the CoC in its 13<sup>th</sup> meeting dated 17.05.2022.



3. We have heard the learned counsel for the Applicant and perused the material on record. It is noted that the Corporate Debtor was admitted into CIRP by the Adjudicating Authority vide order dated 07.09.2021. Mr. Parthiv Parikh was appointed as an IRP. The IRP constituted the CoC on 12.10.2021 comprising of eight CoC members. This Adjudicating Authority by its order dated 24.11.2021 in IA No. 781 of 2021 appointed Mr. Sunil Kumar Kabra - the Applicant herein to act as the RP. The RP published Form-G on 27.11.2021 wherein the last date for submission of Expression of Interest ("EoI") was 20.12.2021. But no Plan was received. Thereafter, on 25.12.2021 Form-G was re-published. After the re-publication of Form-G, five Resolution Plans were received from the Resolution Applicants. However, the Resolution Applicant - M/s. Khandwala Finstock Private Limited vide e-mail dated 05.05.2022 withdrew its Plan. Thereafter, the CoC decided to put all four Resolution Plans for e-voting. The said e-voting was commenced on 07.06.2022 and the same was concluded on 19.07.2022. In the meantime, the Applicant also sought an extension of 90 days as well as an exclusion of 42 days. As per the e-voting concluded on 19.07.2022, none of the plans got the requisite percentage as per law. Hence, as per Regulation 39(3B) of CIRP Regulations, 2016, the Resolution Plan of Mr. Rajnikant Prabhudas Mandavia was put for e-voting again and it received only 47.70 % voting which did not meet the requisite voting percentage. The CoC did not receive any Resolution Plan worth to be accepted, and hence, the CoC in its 13<sup>th</sup> meeting dated 17.05.2022 with 98.04% votes resolved to liquidate the Corporate Debtor as a going concern wherein the liquidation cost was estimated of Rs. 17,50,000/-or whatever incurred on the actual basis, as per Regulation 39B of IBBI (CIRP) Regulations, 2016. It has also been resolved that the said expenses will be met out from the available funds of the Corporate Debtor and in case of any shortfall, the same shall be paid by the Financial Creditors in proportion to their respective voting share.

4. Considering the above, we are of the view that the present application deserves to be allowed, and hence by invoking the provisions of section 33 of



the Insolvency & Bankruptcy Code, 2016, we allow the present application with the following directions:

- (i) IA/670(AHM)2022 is allowed and the Corporate Debtor - M/s. Arachon Engicon Ltd., is ordered to be liquidated in terms of the provisions of the IBC, 2016.
- (ii) The Liquidation of the Corporate Debtor is effective from the date of this order and the moratorium declared vide order dated 07.09.2021 in CP(IB) No. 211/7/NCLT/AHM/2020 henceforth ceases to exist.
- (iii) As per section 34(1) of the IBC, 2016, the Applicant/Resolution Professional, Mr. Sunil Kumar Kabra (IBBI/IPA-001/IP-P01011/2017-2018/11662) is hereby appointed as a Liquidator of the Company – Archon Engicon Limited. The Liquidator so appointed shall complete the Liquidation process as per the provisions of the Insolvency and Bankruptcy Code, 2016 r.w. Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (iv) Public notice shall be issued in the same newspaper i.e., “Financial Express” all India Edition and in “Divya Bhaskar”, in the Gujarati Edition stating that the Corporate Debtor is in Liquidation.
- (v) All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor, hereafter cease to exist. All these powers henceforth, vest with the Liquidator.
- (vi) The peronnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor. Further, the Liquidator shall also provide all co-operation to the various Government agency(s)/ authority(s) in ongoing investigations/inquiry or inquiries initiated hereafter.



(vii) That once Liquidation process initiated subject to section 52 of the Code, no suit or legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute the suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority as mentioned in sub-section 5 section 33 of the IBC, 2016.

(viii) This Liquidation order shall be deemed to be 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.

(ix) The registry is directed to upload this order on the official website within two working days from the date of this order. The authenticated copy of this order be sent by the Registry to the Financial Creditor, Corporate Debtor, Registrar of Company, Resolution Professional and Liquidator by Speed-post within one week from the date of this order.

4. Accordingly, IA/670(AHM)2022 in CP(IB) 211 of 2020 is allowed and disposed of.

**-SD-**

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

**-SD-**

**DR. MADAN B. GOSAVI  
MEMBER (JUDICIAL)**

Rajeev Kr. Sen/Stenographer