

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

IA(IBC)/1182(CHE)/2021 in IBA/1302/2019

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

*In the matter of **M/s. Azimuth Software India Private
Limited***

Shri. K. Suresh
Resolution Professional,
M/s. Azimuth Software India Private Limited
No. 14, Second Floor,
Muthu Street,
Santhome, Chennai – 600 004.

... Applicant / Resolution professional

Order Pronounced on 22nd July, 2022

CORAM:

JUSTICE (RETD.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant: Mr. K. Suresh, Insolvency Professional

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

The Application has been preferred by the Resolution Professional of the Corporate Debtor (M/s. Azimuth Software India Private Limited) under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 seeking relief as follows;

- a. *Consider and approve the initiation of Liquidation Process of the Corporate Debtor under the Insolvency and Bankruptcy Code, 2016,*



- b. *Direct and appoint Mr. K. Suresh, the Resolution Professional as the Liquidator for initiation of Liquidation Process of the Corporate Debtor and*
- c. *Pass such other orders, as the Hon'ble Tribunal may deem fit in the facts and circumstances of the above case.*

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated and the Applicant herein was appointed as IRP on 04.03.2021 by this Tribunal. The Applicant as IRP caused public announcement calling for the claimants from the Creditors of the Corporate Debtor by virtue of publication dated 10.03.2021.

3. It is submitted that the Applicant had discovered upon inspection on 13.03.2021 at the Registered Office of the Corporate Debtor at Puducherry that the business was not functioning and that it was more than one year since the Corporate Debtor had vacated the premises. It is also averred that the Applicant was informed that the office records of the Corporate Debtor were kept at another address, which was also state to be inspected by the Applicant. Finally, the Applicant submits that the inventories of the Corporate Debtor were only a few chairs, one functioning computer and some CDs. That apart, it is submitted that there were no physical records all the accounts of the Corporate Debtor were stored digitally. The

Applicant further submits that it was ascertained that the Corporate Debtor had two bank accounts and that the bank statements for the past three years had been taken by the Applicant.

4. It is further submitted that the Applicant as IRP had only received one claim of Rs. 2,23,808.12/- from one Mrs. B. Padmavathi, who had initiated CIR Process against the Corporate Debtor. Against the said claim, the Applicant had accepted only a sum of Rs.1,30,121/- as there were no agreement had been produced for the interest portion. The Applicant submitted that the CoC consisting of only operational creditors was constituted since there are no financial creditors. The said CoC in their 1st meeting dated 07.04.2021 wherein the CoC confirmed the present Applicant herein to continue as the RP of the Corporate Debtor.

5. It is submitted by the Applicant that the Corporate Debtor had owned neither any immovable properties nor any valuable assets. Nonetheless, the Applicant in terms of Regulation 27 had appointed and obtained reports by two registered valuers. The said reports are placed along with the present Application. It is also submitted that the Applicant was in receipt of two belated claims, namely the Income Tax Department and the Employees' State Insurance Corporation. The claims of the said claimants

were stated to have been admitted by the Applicant and in consequence, the CoC was stated to be reconstituted.

6. It is submitted by the Applicant that upon analysis of the books and the assets, the Corporate Debtor was not carrying on any business for the last two years and that the entire business model revolved around the Corporate Debtor was outdated. As per the evaluation of the Applicant RP, there is no purpose in issuing EoI in Form – G, and that the continuation of CIR Process will only increase the expenses, and had therefore not called for any EoI in Form - G. In this regard, the Applicant had originally scheduled the 2nd Meeting of the CoC on 09.08.2021, which was adjourned to 25.08.2021 due to want of quorum. In the meeting convened, it was unanimously resolved to proceed with the liquidation of the Corporate Debtor, however, it was fairly submitted that the resolution approved did not satisfy the 66% threshold of voting share mandated by Section 33(2) of the Code.

7. The Applicant further submitted that on the one hand, the required approval of the CoC to proceed with liquidation has not been obtained, and on the other hand, the CIR Process has only increased the costs without any business being run, and it was even pointed out that the remuneration for the Applicant is yet to be fixed by the CoC. It was also stated that there is no



possibility of any Resolution Plan with respect to the Corporate Debtor and that the CIR Process period had also expired 07.09.2021, a few days before preferring this Application and there is no averment as to any extension Application.

8. In view of our findings the possibility of revival of the companies are bleak. The assets can be sold under liquidation. Company has ceased to be a going concern, much before the CIRP commenced. It can also be seen the Applicant has consented to act as the Liquidator for the Corporate Debtor.

9. Thus, as a consequence thereof, the Corporate Debtor is required to be ordered for liquidation as per Section 33(1) of IBC, 2016. Subject to the Applicant holding a valid AFA, we hereby appoint the Applicant, **Shri. K. Suresh** with **Reg. No. IBBI/IPA-002/IP-N00703/2018-19/12322** as the Liquidator of the Corporate Debtor, to carry out the liquidation process subject to the following terms of the directions.

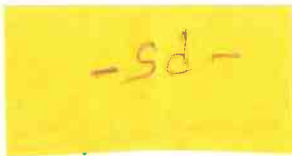
- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that 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.

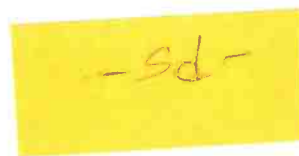
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) 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.

10. Accordingly, IA(IBC)/1182(CHE)/2021 filed for Liquidation of the Corporate Debtor stands **Allowed**.



SAMEER KAKAR
MEMBER (TECHNICAL)



JUSTICE (RETD.) S. RAMATHILAGAM
MEMBER (JUDICIAL)

V.Shreekumar