

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/189/(KOB)/2022

IN

TIBA/34/KOB/2019

(Under Section 33(2) and Section 34(1) of the IBC, 2016)

In the matter of:

AXIOMATA ELEVATORS PVT LTD

...Corporate Debtor

MEMO OF PARTIES:

RENAHAN VAMAKESAN

Resolution Professional, Axiomata Elevators Pvt Ltd
Villa 23, Skyline Rosemount Homes, Kunjan Bava Road,
Ponnurunni, Vyttila P.O, Ernakulam- 682019

...Applicant

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing)

For the Applicant : A. Kevin Thomas, Advocate,
Renahan Vamakesan (RP)

For Suspended Management : Anitta Ann George, Advocate

Order reserved on: 22.09.2022
Order pronounced on: 28.10.2022

ORDER

1. This Application has been filed under Section 33(1) and Section 34(1) of the IBC, 2016 by **Mr. Renahan Vamakesan**, Resolution Professional in the matter of **Axiomata Elevators Pvt Ltd** for initiation of Liquidation Process

of the Corporate Debtor and to appoint the Resolution Professional as the Liquidator of the Corporate Debtor. The brief facts are: -

2. This Tribunal vide order dated 26.11.2019 admitted the application filed by the **Wittur Elavator Components India Pvt Ltd**, Operational Creditor and initiated Corporate Insolvency Resolution Process (CIRP) against **Axiomata Elevators Pvt Ltd**, the Corporate Debtor (CD). Mr. Sadiq Buhari, IP (erstwhile RP) was appointed as the Interim Resolution Professional to carry out the CIRP and later on as the RP by the COC. Certain issues had cropped up between the erstwhile RP and the COC which led to many litigations wherein considerable time of approximately 707 days was lost from the CIRP which this Tribunal excluded from the CIRP pursuant to the order dated 21.12.2021. Subsequently at the 7th COC meeting held on 27.05.2022, the COC decided to replace the erstwhile RP, Mr. Sadiq Buhari, with the present RP who is the applicant in this application.
3. The applicant took charge as RP on 17.06.2022 and convened the 8th COC meeting on 24.06.2022. An extension of time of CIRP of 30 days was also granted vide order dated 30.06.2022 in view of the exceptional circumstances which led to delay in CIRP. The summary of time taken in CIRP has been stated as follows:

S. No.	Period	Days	Particulars
1	26.11.2019 to 14.01.2020	49 days	Period from initiation of CIRP till 2nd COC meeting
2	14.01.2020 to 21.12.2021	707 days	Period excluded by Hon'ble NCLT vide order dated 21.12.2021
3	21.12.2021 to 01.05.2022	131 days	Remaining days in the actual period of 180 days.

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4	01.05.2022 to 30.06.2022	60 days	Extension granted by the Hon'ble NCLT vide order dated 19.05.2022 in IA.88 of 2022
5	01.07.2022 to 30.07.2022	30 days	Further extension granted by the Hon'ble NCLT vide order dated 30.06.2022 in IA 148 of 2022
Total days actually spent in CIRP is 270 days (180+60+30)			

Hence the permitted time period for CIRP has ended as on 30.07.2022 and a total period of 270 days stands completed.

4. The applicant duly following the procedures of CIRP and in consultation with COC has verified the claims received and formed the list of Financial creditors and operational creditors as follows: -

Sl. No.	Type of Creditor	Name of Creditor	Amount Claimed(Rs.)	Claim Admitted(Rs.)	Voting Share
1	Financial Creditor	Bajaj finance Ltd (Debt assigned to Wittur Elevator Components India Pvt Ltd)	3,43,569.10	2,57,716	100%

Sl. No.	Type of Creditor	Name of Creditor	Amount Claimed(Rs.)	Claim Admitted(Rs.)
1	Operational Creditor	Wittur Elevator	72,31,190	60,78,484

		Components India Pvt Ltd		
2	Operational Creditor	Kerala Goods and Services Department	22,22,966	22,22,966
3	Operational Creditor	Santhosh A	5,00,000	5,00,000
Total				88,01,450/-

5. It is stated that during the CIRP, only one prospective Resolution Applicant M/s. Universal Elevators had come through to whom RFRP was issued by the RP. However, the plan did not materialise on account of allegations that financials of the CD was not proper and in order. Hence at present there is no Resolution Plan available for the CD. It is also stated that the CD is not a going concern and there are no employees for the CD.
6. It is stated that in view of the impossibility for revival of the CD, the COC in its 10th meeting dated 25.07.2022 resolved to proceed with the liquidation of the CD with 100% voting share and the appointment of the applicant as the liquidator. The minutes of the 10th COC meeting is produced and is on record. The consent of the RP to be the liquidator and the authorisation for the assignment from ICSI IIP is also on record.
7. Heard both sides and perused documents on record. The counsel for suspended management has stated that they have no objection in proceeding with the liquidation of CD. In view of the aforesaid facts and circumstances, and considering the commercial wisdom of the COC to liquidate the CD, the following order is passed: -

- (i) **M/s. AXIOMATA ELEVATORS PVT LTD** is hereby put under liquidation with immediate effect under Section 33 (1) of I&B Code, 2016.
- (ii) **Shri. RENAHAN VAMAKESAN**, having Registration No. **IBBI/IPA-002/IP-N00630/2018-2019/11897**, [E-mail-**renahanv@gmail.com**] having address **Villa 23, Skyline Rosemount Homes, Kunjan Bava Road, Ponnuranni, Vyttila P.O, Ernakulam-682019** is appointed as the **Liquidator** of the Corporate Debtor subject to submission of written consent under Section 34 (1) of the I&B Code, 2016 in the prescribed form within a week from the date of receipt of this order.
- (iii) The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
- (iv) The Liquidator shall initiate the liquidation process as envisaged under Chapter-II of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- (v) Whenever the Liquidator issues any publication in the newspapers, the said shall be published in widely circulated newspapers in the State in which the Registered Office of the Company is situated.
- (vi) Public Notice shall be issued in two newspapers, viz., one in English and another in Malayalam language, stating that the Corporate Debtor is in liquidation, as required in terms of Section 33(1) of the Code;

- (vii) All the powers of the Board of Directors and the key managerial persons of the Corporate Debtor shall cease to exist. All these powers shall henceforth be vested with the Liquidator.
 - (viii) The Suspended Directors and 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.
 - (ix) On initiation of the liquidation process but 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 to the liquidator to institute suit or other legal proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in Section 33(5) of the Code read with its proviso.
 - (x) 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.
 - (xi) The Deputy Registrar/Assistant Registrar shall forward a copy of this Order to the Liquidator and the Registrar of Companies, Kerala, immediately upon pronouncement of this Order; for updating the Master Data of the Corporate Debtor.
 - (xii) The fee payable to the Liquidator shall be in compliance with Regulation 4 of IBBI (Liquidation Process) Regulations, 2016.
8. The application is, therefore, disposed of accordingly.
9. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties and their counsel for information and for taking necessary steps.

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10. Let the certified copy of the order be issued upon compliance with requisite formalities.
11. File be consigned to records.

Sd/-
Satya Ranjan Prasad
Member (Technical)

Sd/-
P. Mohan Raj
Member (Judicial)

Signed on this the 28th day of October, 2022.

Rohit