

**Liquidation Ms. Meenakshi Cargo Forwarders Pvt Ltd - IN THE
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI**

IA /IBC (LIQ)/ 1 (CHE) / 2024

IN

CP (IB) / 240 (CHE) / 2022

*(Under Section 33(2) & 34(5) of Insolvency & Bankruptcy Code, 2016 r/w Rules 11
& 32 of NCLT Rules, 2016)*

Shri. R Thamodharan

Resolution Professional of

M/s. Meenakshi Cargo Forwarders Private Limited,

No. 107, Dhurvatarra Appartments, 241, Dr. Rajendraprasad Road,
Tatabad, Coimbatore, Tamil Nadu – 641 012.

... Applicant

In the matter of

M/s. Index Logistics Private Limited

... Applicant /Operational Creditor

Versus

M/s. Meenakshi Cargo Forwarders Private Limited

... Respondent /Corporate Debtor

Order Pronounced on 31st May 2024

CORAM

Shri. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

Shri. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

For Applicant:

Mr. B.Dhanaraj, Mrs. Deepa Mariappan & Mr. Mohammed Umar, Advocates

ORDER

(Heard through video conferencing)

1. IA/IBC (LIQ)/1(CHE) in CP (IB)/240 (CHE)/2022 is an application filed under section 33 of the Insolvency & Bankruptcy code, 2016 (herein after termed as “the Code”) by Mr. R Thomodharan, RP of M/s. Meenakshi Cargo Forwarders Private Limited, the Corporate Debtor (hereinafter referred as “CD”) seeking following reliefs as follows,

- “1. To pass an Order of Liquidation of the Corporate Debtor M/s.Meenakshi Cargo Forwarders (P) Ltd.,
2. To direct the Insolvency and Bankruptcy Board of India (Board), to propose the name of another Insolvency Professional to be appointed as a Liquidator of the Corporate Debtor,
3. To pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.”

2. M/s. Meenakshi Cargo Forwarders Private Limited, the corporate debtor, was admitted to Corporate Insolvency Resolution Process, (hereinafter referred as “CIRP”) vide an order dated 10.07.2023 passed by this Adjudicating Authority. Mr. R.Thamodharan, was appointed as the Interim Resolution Professional of the CD.
3. Form the Compliance certificate (Form H) attached with the application the dates and events subsequent to initiation of CIRP of the CD is as follows,

S. No	Date	Events
1	10.07.2023	Commencement of CIRP
2	13.07.2023	Publication of Public announcement
3	04.08.2023	Constitution of Committee of Creditors (CoC) by IRP
4	08.08.2023	1 st CoC meeting approving admission of Additional Financial Creditors and including Operational Creditors having more than 10% total claim to be part of CoC without any voting rights along with confirmation and continuance of IRP as Resolution Professional (RP) of the CD.
5	01.09.2023	Appointment of 1 st Registered Valuer Mr. M. Muniyandi
6	19.09.2023	Appointment of 2 nd Registered Valuer Mr. P. Anandharaj
7	21.09.2023	2 nd CoC meeting approving admission of Additional financial creditors.
8	21.11.2023	3 rd CoC meeting approving admission of Additional claims of the existing Financial Creditors

9	08.12.2023	4 th CoC meeting which resolved recommendation of Liquidation of the CD without going through Expression of Interest (EoI) process.
10	06.01.2024	Expiry of 180 days of CIRP
11.	06.01.2024	Date of filing Liquidation application before this Adjudicating Authority

4. It is stated that the sub-committee which has been constituted in the 1st CoC meeting communicated to the members of CoC during the 2nd CoC meeting that the erstwhile management has refused to provide the details sought by them which ruled out the possibility of analysing the affairs of the CD and its position as a going concern.
5. It is submitted that the RP has presented the Information Memorandum with the available data and records to the CoC and informed about the need for preparation and presentation of Request For Resolution Plan, Evaluation Matrix and Expression of Interest (EOI) in Form G with the CoC approval, but the CoC with majority voting decided not to continue the business as a going concern.
6. It is averred that, during the 3rd CoC meeting, Audited financial statements for the FY 2022 – 2023 of the CD and its audit report were the subject of discussion where the members of the CoC, on considering the background, Asset base and Negative net-worth decided not to invite any Resolution plan and preferred for moving for liquidation of the CD.
7. It is stated that Resolution for Liquidation of the M/s. Meenakshi Cargo Forwarders Private Limited directly and not to undertake the exercise of inviting EOI, preparing RFRP and calling for Resolution Plan was subject to E-Voting through Claim Bridge Technologies platform from 10.00 AM of 27.11.2023 to 6.00 PM of 28.11.2023, which

was passed by the members of the CoC having voting share of 77.88% and members having remaining voting share abstained from process.

Claim-Bridge Technologies

Date: Tuesday 28th of November 2023

This is to certify that E-voting event for **E-Voting for Meenakshi Cargo Forwarders Private Limited** conducted on Claim-Bridge platform from Monday 27th of November 2023 10:00:00 AM to Tuesday 28th of November 2023 06:00:00 PM conducted fairly over a secured platform.

Total Voters:	9
Total Voted:	5
Total voting per:	100 %

Resolution Id:- 6bZPHXSLSJjeH60508

Item No 1

“Resolved to approve the Resolution for Liquidation of M/s.Meenakshi Cargo Forwarders Private Limited as proposed by M/s. Aditya Birla Finance Ltd., that the members of the CoC hereby declare their decision, that since the net worth of the CD is negative and since the available Property, Plant and Equipment value of the CD as per the Audited financial Statement of the CD for the year ended 31.03.2023 is only Rs. 1.32 lakhs and major part of the Current asset being Receivable of Rs. 650.80 lakhs are NOT confirmed by the parties and since the total claims is Rs.835.83 lakhs, the members of the CoC, deem it fit to recommend the CD for Liquidation directly and not to undertake the exercise of inviting EOI, preparing RFRP and calling for Resolution plan etc.,”

Further resolved to authorize the Resolution professional to file the application to the Hon'ble NCLT the result of the Voting as the decision of the CoC U/s. 33(2) of the IBC 2016”

#	Yes	No	Abstain
Total (%)	77.88	0	0
Count	5	0	0

DocuSigned by:

Chirag Vats
 Chirag vats
 Claim Bridge Technologies

8. It is submitted that during the 4th CoC meeting which held on 08.12.2023, the CoC once again discussed the said E-Voting in respect of recommending direct liquidation

of the CD without further continuation of the CIRP process and approved the same with 77.88% voting share. The Resolution passed in the E-Voting and 4th CoC is extracted as follows,

"Resolved to approve the Resolution for Liquidation of M/s. Meenakshi Cargo Forwarders Private Limited as proposed by M/s. Aditya Birla Finance Ltd., that the members of the CoC hereby declare their decision, that since the net worth of the CD is negative and since the available Property, Plant and Equipment value of the CD as per the Audited financial Statement of the CD for the year ended 31.03.2023 is only Rs.1.32 lakhs and major part of the Current asset being Receivable of Rs.650.80 lakhs are NOT confirmed by the parties and since the total claims is Rs.835.83 lakhs, the members of the CoC, deem it fit to recommend the CD for Liquidation directly and not to undertake the exercise of inviting EOI, preparing RFRP and calling for Resolution plan etc.,"

Further resolved to authorize the Resolution professional to file the application to the Hon'ble NCLT the result of the Voting as the decision of the CoC U/s. 33(2) of the IBC 2016"

9. It is stated that the CoC has not recommended appointment of a Liquidator in respect of the this CD and thus the applicant RP has sought for proposing any other Insolvency Professional to be appointed as Liquidator as per the code.
10. It is observed that since the CoC found no prospects in continuing with the CIRP. Therefore the above resolution for Liquidation of the Corporate Debtor has been passed taking into consideration the interest of the Corporate Debtor and all other stakeholders concerned. Thus CoC directed the Resolution professional to file application for Liquidation of the Corporate Debtor.
11. The Applicant/RP submitted FORM-H as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The same is placed in the typed set of papers filed with the application. From the Minutes of the 4th CoC meeting, it is observed that the CoC has not proposed any Liquidator in this matter and the connected portion of the Resolution is extracted as follows,

b. Appointment of Liquidator – Sec 34 of IBC

The RP informed the CoC members the provision of Sec 34 of IBC, 2016 regarding appointment of Liquidator which was given in the Notice of 4th CoC Meeting. One of the CoC Member M/s.Aditya Birla Finance Limited informed in the meeting the Liquidator name will be recommended in due course i.e., on or before 14.12.2023 and further time was given up to 27.12.2023. The CoC members not recommended the name of the Liquidator for M/s.Meenakshi Cargo Forwarders Private Limited.

c. Meeting Liquidation Cost – Regulation 39B

The Resolution Professional Informed the members of the CoC, provision of Regulation 39B of IBBI(CIRP) Regulations 2016 that the Liquidation cost to be incurred after Liquidation order passed. The CoC members informed that this item will be discussed after appointment of Liquidator and at the first meeting of the Stakeholders Consultation Committee meeting. The following Resolution was passed:

"Resolved to decide and pass necessary resolution on the Liquidation cost after the Liquidation cost is estimated and presented by the incoming Liquidator before the Stakeholders Consultation Committee"

12. After verifying the disciplinary status from the IBBI portal, We appoint **Mr. Mahesh Lakshmanadass** having **Reg. No. IBBI/IPA-001/IP - P01734/2019 - 2020/12654**, email id: maheshtup@gmail.com with valid **AFA till 22.11.2024** as the Liquidator for the Corporate Debtor.
13. From the above facts and circumstances, considering the decision taken by the CoC of the Corporate Debtor, this Adjudicating Authority deems it fit to order Liquidation of the Corporate. Accordingly, we order liquidation of the Corporate Debtor by appointing the above **Mr. Mahesh Lakshmanadass** as the Liquidator to carry out the liquidation process subject to the following terms/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 up to date enjoined upon him.*
 - 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 a suitable application before this Adjudicating Authority.

d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and 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 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 individual 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 reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor

14. With the above directions, **IA/IBC(LIQ)/1(CHE)/2024** in **CP(IB)/240(CHE)/2022** stands allowed and disposed of.

-Sd/-
RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd/-
JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)