

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

IA/587/IB/2020 in IBA/257/2019 filed
under Sections 33 (2) of the
Insolvency and Bankruptcy Code,
2016

In the matter of M/s. MK Cables and Conductors Private Limited.

Mr. Ramakrishnan Sadasivan,
Resolution Professional
M/s. MK Cables and Conductors Private Limited
Old No. 22, New No. 28, Menod Street,
Purasawalkam, Chennai-600007

... Applicant/Resolution Professional

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For Applicant/RP: *Shri. T. Ravichandran, Advocate*

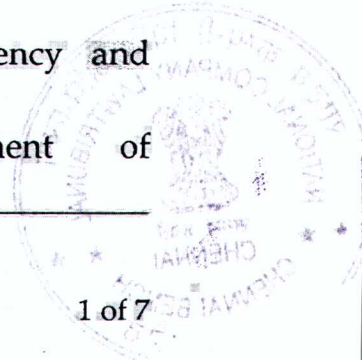
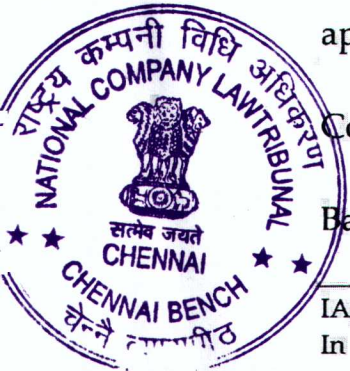
ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 27.01.2021

The above Application is filed by the Resolution Professional appointed by this Tribunal, seeking for the liquidation of the Corporate Debtor under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and for appointment of

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Applicant/Resolution Professional as Liquidator of the Corporate Debtor.

2. From the averments made in the Application, it is evident that the CIRP in relation to the Corporate Debtor was initiated on 30.07.2019 and one Mr. R. Sankaran was appointed as the Interim Resolution Professional (IRP). Subsequently, the Committee of Creditors in the 1st meeting held on 30.08.2019 by unanimously resolved to replace Mr. R. Sankaran (IRP) by Mr. Ramakrishnan Sadasivan as the Resolution Professional and this Tribunal confirmed the appointment by an order dated 09.10.2019. Prior to appointment of this Applicant as RP, the IRP invited claims through public announcement on 03.08.2019 and received claims of Rs.5.37 crore from one financial creditor on 31.07.2019 and further claims of Rs.1.67 crore from 3 operational creditors totalling in all to Rs.7.04 crore. There were no claims from employees.

3. It is also evident from the averments made in the Application that the Applicant had inspected the factory premises, took possession of the assets of the Corporate Debtor and appointed 2



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registered valuers and received the valuation reports. The Applicant filed an Application under Section 19(2) for cooperation from the suspended directors of the corporate debtors and an application in respect of fraudulent transactions under Section 66 seeking Adjudication by this Tribunal and both the cases are yet to be adjudicated. Further, the sole Financial Creditor, being Punjab National Bank had issued a notice under Section 13(4) of the SARFAESI Act for the auction of Land Building. The Corporate Debtor approached DRT against the sale of land and building and the DRT vide its order dated 13.12.2018 cancelled the auction sale. The Financial Creditor went on an appeal before the DRAT, wherein the auction sale conducted by the Financial Creditor was approved by an order dated 21.08.2019 after the commencement of the CIRP proceedings. Aggrieved by the order of DRAT, the Corporate Debtor and erstwhile IRP went to the Hon'ble Madras High Court against the DRAT ruling on the ground that *no order could be passed*

after the commencement of the CIRP. An application MA/932/2019 in CP/257/IB/2019 was filed bringing forth these facts to the notice of

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this Adjudicating Authority. The application was disposed by this Tribunal as under:

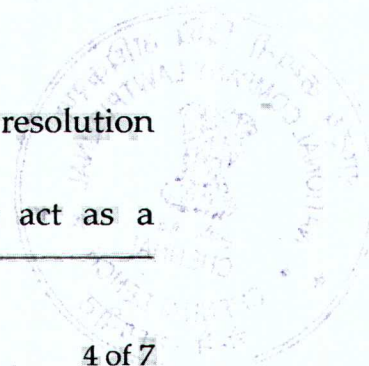
"In this background, we restrain ourselves from proceeding any further over this application until WP 27780 of 2019 filed by the Promoter-Director and WP 25839 filed by the IRP adjudicated by the Hon'ble High Court of Madras".

4. It is also averred that the title to land and building is currently under dispute and the cases are still pending with the Hon'ble Madras High Court. The plant and machinery had not been in operation for the past 3½ years and eventually, due to the lapse of time, the Corporate Debtor's assets have deteriorated in value and thereby the concept of going concern has become a question. The electricity connection was also disconnected prior to the CIRP commencement date. In the light of the above mentioned impediments, the CoC members in the 9th CoC meeting held on 27.05.2020 resolved to file an application before this Adjudicating Authority in order to liquidate the Corporate Debtor.

The Applicant submitted that pursuant to the resolution passed by the 9th CoC meeting approving the RP to act as a

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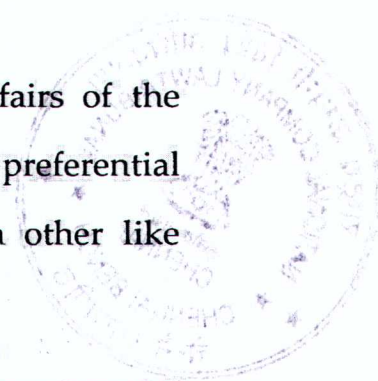
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Liquidator of the Corporate Debtor, the RP has filed written consent letter dated 18.06.2020, for being appointed as such by this Tribunal.

6. In the light of the above, we hereby order for liquidation of the Corporate Debtor namely M/s. MK Cables and Conductors Private Limited and Mr. Ramakrishnan Sadasivan having [Reg No. IBBI/IPA-001/IP-P00108/2017-2018/10215] 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.
- 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 of 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



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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



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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; and

- 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;

9. Hence, this application IA/587/IB/2020 stands disposed of with the aforesaid terms.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

TJS



Certified to be True Copy

K. Nataraj
29/1/2021
DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR,
29, RAJAJI SALAI, CHENNAI-600001

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