

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI

IA/(IBC)/343/CHE/2023 in IBA/1130/2019

*(Filed under Section 33(1)(a), 33(2) & 34(1) of the Insolvency and
Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016)*

In the matter of **Base Electricals and Electronic Solutions Private
Limited**

Vasudevan Gopu,

Resolution Professional of
Base Electrical and Electronic Solutions Pvt. Ltd.
IBBI/IPA-002/IP-N00291/2017-18/10849
G.V. Enclave 18/30, Ramani Street,
K.K. Pudur, Saibabab Colony,
Coimbatore – 641 038

... Applicant /Resolution Professional

Along with

**IA(IBC)/458/CHE/2023 in IA/(IBC)/343/CHE/2023
in IBA/1130/2019**

*(Filed under Rules 11,13 & 14 of the NCLT Rules, 2016 read with Section 5
of the Limitation Act, 1963)*

Vasudevan Gopu,

Resolution Professional
Base Electrical and Electronic Solutions Pvt. Ltd.
IBBI/IPA-002/IP-N00291/2017-18/10849
G.V. Enclave 18/30, Ramani Street,
K.K. Pudur, Saibabab Colony,
Coimbatore – 641 038

... Applicant /Resolution Professional

Order Pronounced on 01 May, 2023

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant : *Rohan Rajasejkaran, Advocate*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

This is an application filed under Section 33(1)(a), 33(2) & 34(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016:

a) That this Ld. Adjudicating Authority may be pleased to pass an order for Liquidation of the CD namely M/s. Base Electrical and Electronics Solutions Pvt.Ltd.;

b) That this Ld. Adjudicating Authority may be pleased to pass an order by appointing Vasudevan Gopu, Insolvency Professional as Liquidator for administering the Liquidation Process of the CD; and

c) To pass such orders or further orders which this Hon'ble Tribunal may deem to be fit and proper in the interest of justice.

2. Corporate Insolvency Resolution Process (CIRP) commenced in the matter vide order dated 11.12.2019 in IBA/1130/2019 and an application has been filed under Section 9 by an Operational Creditor namely M/s. Fomra Electronics Pvt. Ltd and one Mr. Vengetrao was appointed as the Interim resolution Professional (IRP).



3. Pursuant to the order of CIRP, Public Announcement was made by the IRP on 23.12.2019 and Committee of Creditors (CoC) was constituted on 10.01.2020. Karur Vysya Bank Limited was the sole Financial Creditor of the CoC.

4. Vide order dated 06.10.2020 in IA/292/2020 this Tribunal replaced the IRP and appoint the applicant herein as the Resolution Professional (RP) of the Corporate Debtor Company.

5. The RP thereafter appointed two valuers and prepared the Information Memorandum which was circulated to the CoC members during the 4th CoC meeting.

6. The Applicant sought approval for issue of Invitation for Expression of Interest for inviting prospective resolution applicants, however, the CoC did not recommend for issue of Form-G as the CoC appoint that business of the Corporate Debtor could not be revived considering the financial position of the Corporate Debtor.

7. As per the reports received from the two registered valuers the summary average valuation is reproduced below:

PARTICULARS	VALUE
FAIR VALUE	Rs. 2,29,958/-
LIQUIDATION VALUE	Rs. 1,06,947/-

8. In the meantime personal guarantors of the Corporate Debtor settled full loan amount with the sole Financial Creditor Karur Vysya Bank and the said Karur Vysya Bank had withdrawn the claim vide letter dated 30.10.2021.

9. The applicant further submits that since the Financial Creditor has withdrawn the claim and by that time CoC could not be re-constituted and also 330 days of CIRP got over. Hence, the RP prays for liquidation of the Corporate Debtor.

10. Form-H dated 08.08.2022 is available on record. The present application has been filed on 29.06.2022.

11. IA(IBC)/458/CHE/2023

11.1. This is an application filed by the RP seeking to condone the delay of 251 days in filing of the Liquidation Application of the Corporate Debtor in IA/343/2023 in IBA/1130/2019. We are favorably inclined to condone the delay of 251 days in filing the present Liquidation Application. Accordingly, the said delay of 251 days is hereby **condoned**

10. Heard the Submissions of the Learned Counsel for the Applicant. At this juncture, it is relevant to point out Section 33(1) of the liquidation as follows:

Initiation of Liquidation:

1) Where the Adjudicating Authority, -

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than sixty-six per cent. of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

[Explanation. For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under of sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]

11. The proposed Liquidator, **Mr.Vasudevan Gopu** is appointed as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorization for Assignment (**AFA**) for the RP is valid up to **07.12.2023**.

12. Thus, as a consequence thereof, the Corporate Debtor is required to be ordered for liquidation as per Section 33(1)(a) of IBC, 2016. We hereby appoint, **Mr.Vasudevan Gopu**, with (**Reg. No: IBBI/IPA-002/IP-N00291/2017-18/10849 and e-mail Id: vasudevanacs@gmail.com**) 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.



13. Accordingly, IA/⁴1343/CHE/2022⁴/₃ filed for Liquidation of the Corporate Debtor stands **allowed**.

— Sd —

SAMEER KAKAR
MEMBER (TECHNICAL)

— Sd —

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT