

**NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH - I  
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH  
NATIONAL COMPANY LAW TRIBUNAL, HELD AT ON 25.11.2021 at 10.30 AM  
THROUGH VIDEO CONFERENCING**

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**PRESENT: SMT. R. SUCHARITHA, MEMBER (JUDICIAL)  
SHRI. SAMEER KAKAR, MEMBER (TECHNICAL)**

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**APPLICATION NUMBER : MA/106(CHE)/2021  
IN**

**PETITION NUMBER : IBA/354/2020**

**NAME OF THE PETITIONER(S) : V Senthilkumar - IRP  
Inspan Infotech Pvt Ltd**

**NAME OF THE RESPONDENTS :**

**UNDER SECTION : Sec 33(3) of IBC, 2016**

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**ORDER**

Ms. Ramya Subramanian, Advocate appears for the Applicant through video conferencing platform and states that this Application is filed for liquidation order.

It is averred in the application that, in a Section 9(5) Application filed by Operational Creditor M/s Kobian PTE Limited/- for a claim of Rs.20,57,73,004/- (Rupees Twenty Crore fifty-Seven Lakh Seventy-Three Thousand and Four/-) , this Tribunal Vide order dated 22.03.2021 admitted the application and appointed the Applicant herein as the Interim Resolution Professional (Hereinafter **IRP**).

1. It is averred in the application that pursuant to the Applicant being appointed as IRP, he caused Public Announcement under Section 15 of IBC, 2016 in Form-A on 01.04.2021 in English in "Trinity Mirror" Chennai Edition and in "Makkal Kural" Chennai Edition Tamil and invited claims in accordance with the provisions of IBC, 2016.
2. It is averred in the application that in the 1<sup>st</sup> CoC held on 30.04.2021, based on the claims received by the Applicant, CoC was framed with three operational Creditors, consisting of M/s Kobian PTE Limited with a Voting share of 99.76% and with other two creditors namely M/s Right Accounting Consultancy, Chennai and Commissioner of Commercial Taxes, Govt of West Bengal.



The Applicant herein further submitted that as there were no Financial Creditors the COC was constituted in accordance with Regulation 16 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

3. It is further submitted by the Learned counsel for the Applicant that, in the audit of the Corporate Debtor conducted in the month of August, 2021, it is seen from the report dated 31.08.2021, that a pendent litigation against the corporate debtor herein, in the Hon'ble High Court of Madras, *M/s Viewsonic Corporation Vs. Inspan Infotech Private Limited*, for a sum of Rs.1,90,99,999/-. Further, the Applicant submitted that no claim had been filed by M/s Viewsonic Corporation.
4. It is averred in the application that, in the 3<sup>rd</sup> COC meeting held on 26.07.2021, the COC resolved to appoint two registered valuers for the assessment of fair value and liquidation value of the financial assets of the corporate debtor.
5. Further it is averred in the application that, the COC in the 3<sup>rd</sup> meeting held on 26.07.2021 resolved to not publish FORM-G for the Expression of Interest from the prospective resolution



applicants. It is further submitted by the Applicant that in the 3<sup>rd</sup> COC meeting it was unanimously resolved that the Applicant herein may continue as the Resolution Professional till a new Resolution Professional was appointed by the COC.

6. It averred in the application, that the Corporate Debtor was not a going concern for the previous two years and did not have any tangible fixed assets or a brand name and a goodwill etc. Further it is submitted that in the 4<sup>th</sup> COC meeting held on 30.08.2021 it was opined that inviting EOI(Expression of Interest) would be futile as the net worth of the Corporate Debtor was negative, as the amount payable to the Creditors were higher than the receivables.
  
7. It is further averred in the Application that in the 4<sup>th</sup> COC meeting held on 30.08.2021, it was resolved by the COC to liquidate the Corporate Debtor. The Resolution passed is extracted hereunder,  
  
*"Resolved that the company be liquidated in accordance to the Provisions of Section 33 (2) of the IBC, 2016, since the corporate debtor is not having any tangible fixed assets, is not a going concern for the past two years and there is no possibility of getting any resolution plan.*



*Further resolved that the Interim Resolution Professional/ Resolution Professional Mr. V. Senthilkumar, be hereby authorized to sign and file necessary applications before the NCLT, Chennai. "*

8. It is seen from the records that in the 4<sup>th</sup> CoC meeting held on 30.08.2021, the CoC had resolved to appoint one Mr. Shiv Shanker, IBBI Registration No. IBBI/IPA/001/P02121/2020-21/13294 as the Liquidator. Further it is also seen that, Mr. Shivshanker, has accorded his written consent in Form AA to act as the Liquidator of the Corporate Debtor. Further it is also seen from the IBBI records that the Authorization for Assignment (AFA) for the said Insolvency professional is valid upto 24.12.2021. In the circumstances, **Mr. Shiv Shanker, IBBI Registration No. IBBI/IPA/001/P02121/2020-21/13294, Email-id: shivshanker93[at]gmail[dot]com** 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 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, viz., company-in-liquidation.



9. The application MA/106/IB/2021 stands **allowed** with the aforesaid terms.

-Sd-

**SAMEER KAKAR**  
MEMBER (TECHNICAL)

-Sd-

**R. SUCHARITHA**  
MEMBER (JUDICIAL)