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

IA/361/CHE/2022 in IBA/140/2020 filed
under *Sections 33 (2)* of the Insolvency and
Bankruptcy Code, 2016

In the matter of **AD MART PRIVATE LIMITED**

Mr. S. Kannan

Resolution Professional of Ad Mart Private Limited
Registration No. IBBI/PA-001/IP-P00755/2017-18/11287
Having Office at Skyline Castle, First floor,
Abdul Razack Street
Chennai,
Tamil Nadu- 600 015.

... Applicant/ Resolution Professional

Along with

IA/362/CHE/2022 in IBA/140/2020 filed
under Section 60 (5) read with Rule 11 of
NCLT, Rules 2016

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Registration No. IBBI/PA-001/IP-P00755/2017-18/11287
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... Applicant/ Resolution Professional

*Order pronounced on **28 April, 2022***

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : Chandramouli Prabhakar, Advocate

COMMON ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

A. IA/IBC/362/CHE/2022

With regard to IA/IBC/362/CHE/2022, which has been filed for the condonation of delay of 14 days in filing this Liquidation Application of the Corporate Debtor i.e., IA/IBC/361/CHE/2022. The Ld. Counsel for the Applicant appeared and submitted that due to unforeseen 'family emergency', resulted in the delay in filing the said liquidation Application of the Corporate Debtor. Thus, this Tribunal after hearing this said matter in a comprehensive manner feels that it is proper to condone the delay of 14 days in filing the Liquidation Application i.e. IA/IBC/361/CHE/2022. Thus, IA/IBC/362/CHE/2022 stands '**allowed**' and the delay of 14 days is condoned.

B. IA/IBC/361/CHE/2022

With regard to Application IA/IBC/361/CHE/2022, is filed under Section 33 (2) of IBC, 2016 by the Resolution Professional of the Corporate Debtor herein Viz., Ad Mart Private Limited seeking the following reliefs:-

- a) This Hon'ble Tribunal may be pleased to pass an Order for Liquidation of the Corporate Debtor Ad Mart Private Limited pursuant to the Unanimous approval of the

Committee of Creditors at the 7th Meeting of the COC held on 9th March, 2022 as per Chapter- III of the Insolvency and Bankruptcy Code , 2016 and the Regulations framed thereunder;

- b) Appoint the Resolution Professional herein Mr. S. Kannan (IP Registration No: IBBI/IPA-00755) as the Liquidator of the Corporate Debtor upon the terms approved the Committee of Creditors at the 7th meeting of the COC held on 9th March, 2022; and
- c) Pass such further or other orders as this Tribunal deems fit in the facts and circumstances of the case and thus render justice.

2. The Corporate Debtor herein was admitted to the Corporate Insolvency Resolution Process vide this Tribunal order dated 18.01.2021 in IBA/140/2020. The Applicant was appointed as the RP in IA/732 and 733 of 2021 by this Tribunal order dated 13.08.2021.

3. It is averred in the Application that during the CIRP only 2 (two) claims was received with regard to the Corporate Debtor

S. NO	NAME OF THE CREDITOR	CLAIM ADMITTED	VOTING PERCENTAGE
1.	Punjab National Bank (Financial Creditor)	33,12,492.34	100%
2.	ACI Wonderwood Products (Operational creditor who filed IBA/140/2020)	46,06,837	---

4. It was submitted by the Ld. Counsel for the Applicant that, this Tribunal in IA/774/2021 vide order dated 13.10.2021 was pleased to excluded 145 days from the CIRP period and thus the CIRP period ended on 09.12.2021.

5. It was submitted by the Ld. Counsel for the Applicant that, the COC after deliberations was of the view that the Corporate debtor could not be revived as there was no movable or immovable assets with the Corporate Debtor and accordingly in the 7th (Seventh) COC meeting dated 09.03.2022 has unanimously resolved to liquidate the Corporate debtor and the said resolution is extracted hereunder:-

“ RESOLVED THAT pursuant to the provisions of Section 33 of the Insolvency and Bankruptcy Code, 2016, approval of the Committee of Creditors be and is hereby given to the Resolution Professional to file appropriate Application before the Hon'ble NCLT Chennai Bench u/s. 33 of the I&B Code, 2016 for initiating the Liquidation Process of the Corporate Debtor M/s. Ad Mart Private Limited.

RESOLVED FURTHER THAT the Committee of Creditors of M/s. Ad Mart Private Limited approve the appointment of the Resolution Professional Mr. S. Kannan (IP Registration No. IBBI/IPA-00755) as the Liquidator of M/s. Ad Mart Private Limited, subject to the confirmation of the Hon'ble NCLT Chennai Bench

RESOLVED FURTHER THAT the consent of Mr. S. Kannan, Resolution Professional to act as Liquidator, in Form AA, be and is hereby taken on record.

RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to file such Application u/s. 33 through Advocate Mr. Chandramouli Prabhakar.

RESOLVED FURTHER THAT the assets of the Corporate Debtor may be sold by the Liquidator as a going concern (If feasible as deemed by the decision of the Stakeholders' Consultation Committee) or individual sale of assets or any other manner as deemed fit by the Liquidator.



RESOLVED FURTHER THAT the Committee of Creditors take on record and approve the Estimated Expenses to be incurred towards the Liquidation Process and the consolidated Remuneration to be paid to the Resolution. Professional as stipulated under Regulations 39 A, 39B, 39C and 39D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Voting Result:

The Committee of Creditors of M/s. Ad Mart Private Limited, comprising of the Sole Member M/s. Punjab National Bank (represented by its Authorized Officer) voted in favor of the proposed resolution, hence the resolution stands passed unanimously.”

6. Further, the Ld. Counsel for the Applicant submitted that, the RP was unable to carry out the valuation and determination of PUFE (Preferential, Undervalued, Fraudulent or Extortionate Transactions) or Invite EOI as envisaged under the IBC, 2016 due to the unavailability of the Books of Accounts/Financial Data of the Corporate Debtor.

7. It was submitted by the Ld. Counsel that, Applicant filed IA/775/2021, seeking cooperation of the erstwhile promoters and Suspended Board of Directors and this Tribunal vide order dated 16.11.2021 'allowed' the same directing the Respondent to provide the relevant documents to the RP. However, the Ld. Counsel submitted that the promoter/director one Mr. Ramji Venkatraman refused to cooperate with the RP citing IA/707/2021

has been filed before this Tribunal for setting aside the IBA/140/2020. It can be seen from the averments that IA/707/2021 was dismissed by this Tribunal vide order dated 08.03.2022 i.e. two days prior to the conclusion of the CIRP period.

8. Further the Ld. Counsel for the Applicant submitted that the Applicant is contemplating to take action against the erstwhile director Mr. Ramji Venkatraman for violation of this Tribunal order in IA/775/2021 dated 16.11.2021.

9. Heard the submissions of the Learned Applicant Counsel. It can be seen from the minutes of 7th COC meeting dated 07.12.2020 the COC has unanimously passed a resolution to Liquidate the Corporate Debtor under Section 33 of the IBC, 2016. Further it can be seen that there are no movable or immovable assets of the Corporate Debtor.

10. Apropos, it can be seen that it satisfies the mandate of 66% voting share under Section 33 (2) of the IBC, 2016. The Section 33 (2) of the IBC, 2016 is extracted hereunder:-

Section 33 (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 percent 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).”

11. It is also seen from the records that the Applicant herein has accorded the written consent, Form AA to act as the Liquidator of the Corporate Debtor and further from the IBBI website it can be seen that the Applicant’s AFA is valid upto 22.12.2022.

12. Thus this Tribunal in view of the facts and circumstances mentioned above is constrained to *Liquidate* the Corporate Debtor under Section 33 of IBC,2016. Further **S. Kannan** with Registration No: *IBBI/IPA-001/IP-P00755/2017-2018/11287* (email: charitarthkannan@gmail.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.

13. Thus, IA/361/CHE/2022 stands **allowed** with the aforesaid directions.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

MEMBER (TECHNICAL)

-Sd-

R. SUCHARITHA
MEMBER (JUDICIAL)

MEMBER (JUDICIAL)

Varshini