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**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH – I, CHENNAI**

IA/699/CHE/2022 in CP (IB)/87 (CHE)/2021

(Filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

In the matter of **KN Interior Designs and Engineering Private Limited**

M. Murugesan

RP of KN Interior Designs and Engineering Private Limited
New No. 41, Old No. 17
16th Avenue, Ashok Nagar
Chennai- 600 083

... Applicant

Along with

IA/636/CHE/2022 in CP (IB)/87 (CHE)/2021

(Filed under Section 19 (2) of the Insolvency and Bankruptcy Code, 2016)

M. Murugesan

RP of KN Interior Designs and Engineering Private Limited
New No. 41, Old No. 17
16th Avenue, Ashok Nagar
Chennai- 600 083

... Applicant

-Vs-

1. Kannan Narayanan

E23, 3rd Street,
Golden Jubilee Apartment
Anna Main Road,
Kalaingar Karunanidhi Nagar
Chennai-600 078.

2. Narayanan Kannan

E23, 3rd Street,
Golden Jubilee Apartment
Anna Main Road,
Kalaingar Karunanidhi Nagar
Chennai-600 078.

3. **Sathya Harsha M R**
MR Harsha & Company,
Chartered Accountants 73/30,
Burkit Road, Parhasarathi Puram,
T Nagar,
Chennai-600 017.
4. **Raghupathy D**
Membership No 020979
EP Thirumalai Associates
Kokila Alacrity Flat 2B
Ground Floor 40,
Melony Road,
Opp To Hindi Prachar Sabha,
T. Nagar
Chennai-600 017
5. **N Ramraj, F.C.A.,**
Chartered Accountant
Membership No.022683
Auditor Jothilingam Office
Chartered Accountants
NO R 22, A Second Floor
Santham Colony,
1st Street Anna Nagar West Extension
Chennai- 600 101.

No. 33, Bootha Perumal St,
Mount Road,
Chennai 600 002

Flat No. 402, Lancor Cornerstone,
No. 35, MMTC Colony Main Road,
Nanganallur,
Chennai- 600 061

...Respondents

Order Pronounced on **19th September 2022**

CORAM:

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

For Applicant : *S Sathyanarayana, Advocate*

ORDER

Per: JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT

IA/636/CHE/2022

This is an Application filed by the RP of the Corporate Debtor under Section 19(2) of Insolvency and Bankruptcy Code, 2016 seeking relief as follows;

- (a) Direct the Respondents to assist and co-operate with the Applicant in managing the affairs of the Corporate Debtor.
- (b) Direct the Respondents to provide the Applicant with statutory records, books of accounts and other details of the Corporate Debtor as listed in para 9 above; and
- (c) Pass such further or orders/ reliefs as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.

IA/669/CHE/2022

This is an application filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 read with Rule of the NCLT Rules, 2016 seeking relief as follows:

- (i) Pass an order of Liquidation of the Corporate Debtor viz., M/s KN Interior Designs and Engineers Private Limited and;

- (ii) Appoint the Applicant Resolution Professional as Liquidator of the Corporate Debtor;
- (iii) Pass such further or orders/ reliefs as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated on 03.12.2021 and the Applicant herein was appointed as the RP by the order of this Tribunal dated 10.03.2022.

3. It is averred in para 3 of the Application that the COC of the Corporate Debtor comprised of the following Financial Creditors;

S.No	NAME OF FINANCIAL CREDITOR	AMOUNT CLAIMED AND ADMITTED IN RS.
1.	Bank of India	2,65,35,759.22
2.	CLIX Capital Services	4,30,401.55
3.	Shriram City Union Finance Limited	13,24,964.00
4.	Deutsche Bank AG	17,80,587.14
	Total	3,00,71,711.91

4. Further, it was submitted that after appointment as Resolution Professional in respect of the Corporate Debtor vide the order of this Tribunal dated 10.03.2022, the RP has collated the claims and it was submitted that the claims of the Financial Creditor totally amounted to Rs. 3,00,71,711.91/- (4 claims) and the Operational Creditor amounted to Rs. 7,49,960.00 (3 claims)

5. To summarise the relevant facts in brevity, it can be seen that the RP did not possess the relevant documents, books of accounts, trail balances etc and the suspended director one Mr. Kannan vide letter dated 09.04.2022 has confirmed to the Applicant herein that operations of the Corporate Debtor stopped completely since 12.02.2021 and no business activity was carried out since then. The same is averred in para 5 of the Application.

6. It is averred in para 4 of the Application that in the 4th COC meeting held on 23.05.2022, the COC after discussions and deliberations with 88.24% voting share resolved to liquidate the Corporate Debtor. The minutes of the 4th COC meeting is annexed as page 23 of the Application typeset.

"Resolved to recommend to the Hon'ble NCLT for liquidation of M/s K.N. Interior Designs and Engineers Pvt Ltd taking into account that the CD could not provide any books of accounts and had no pending orders, no assets of value; the CD stopped operations from Feb 2021 onwards, and both the directors are sick and immobile. No purpose in continuing the CIRP and also to recommend that Shri M. Murugesan, the present Resolution Professional to be appointed by Hon'ble NCLT as Liquidator"

The above resolution was approved by 88.24% voting share.

7. It was submitted that during the course of CIRP, the Applicant RP made various efforts to recover the Books of Accounts, Financial statements, trial balance and relevant documents of the Corporate Debtor. In pursuance to the same the Applicant RP has filed an Application under Section 19 of the Insolvency and Bankruptcy Code, 2016 in IA/IBC/636/2022 against the Suspended Board of Directors and the statutory auditors of the Corporate Debtor. Further the RP has sought various clarifications from the statutory auditors, suspended directors and sundry debtors of the Corporate Debtor and the details of the same is tabulated at page no 3 to 9 of the Application.

8. The Ld. Counsel for the RP submitted that this application has been filed in accordance to the resolution for liquidation passed in the 4th COC meeting dated 23.05.2022.

9. In relation to IA/IBC/636/2022 it is seen that the RP in para 9 of the Application has requested for certain documents to be furnished by the Respondent / suspended Director. It is seen that the Applicant has filed Affidavit of service before this Tribunal on 01.08.2022 and a perusal of the same manifest the fact that the Application has been served to the Respondents, except the 4th Respondent and inspite of the same, there was no representation on

behalf of the Respondents. It is required to be noted that the Corporate Insolvency Resolution Process in respect of the Corporate Debtor was triggered under the instance of the Corporate Debtor itself under Section 10 of Insolvency and Bankruptcy Code, 2016. Under the circumstances, we direct the Respondents to provide the copy of the documents referred to in para 9 of the Application to the Applicant / proposed Liquidator within a period of 15 days from the date of this order. Since we are inclined to order for liquidation of the Corporate Debtor, the proposed liquidator appointed, if necessary can file an application seeking cooperation of the board in the liquidation process under Regulation 9 of the IBBI (Liquidation Process) Regulations, 2016. With the above said directions, IA/IBC/636/2022 stands **disposed of**.

10. In so far as IA/699/2022 is concerned, it can be seen from the averments made in the Application and the submissions made by the Learned Counsel for the Applicant that the Committee of Creditors in the 4th COC meeting held on 23.05.2022 has resolved to liquidate the Corporate Debtor with 88.24% of the voting share. Further the RP has submitted FORM-H as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 and the same is placed as Annexure 1 of the additional typeset filed before this Tribunal on 14.07.2022. In such circumstances, this

Adjudicating Authority concludes that this present application deserves to be allowed.

11. 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).”


12. 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 the Applicant has placed on record a valid AFA till 08/11/2022.

13. In the circumstances, **Mr. M. Murugesan** with Reg. No: *IBBI/IPA-002/IP-N00527/2017-2018/11679* (**email id: vasamu60@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.

14. With the above directions, this IA/IBC/699/CHE/2022 stands **allowed.**



SAMEER KAKAR
MEMBER (TECHNICAL)



JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT