



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT-III**

I.A. 2533/2023

IN

C.P. NO. (IB) 1285/MB/C-III/2021

Under Section 33 and 34 of Insolvency and Bankruptcy Code, 2016 and
Rule 11 of the National Company Law Tribunal Rules, 2016

Mr. Rajendra K. Joshi)
Resolution Professional of)
Welkin IT Services Private Limited)
“Sanjana” B 10, Flat No. 7,)
Behind Madhukar Hospital, Sinhagad)
Road, Anand Nagar, Pune – 411051.)Applicant

IN THE MATTER OF

M/s Adecco India Private LimitedOperational Creditor
Vs.
M/s Welkin IT Services Private LimitedCorporate Debtor

Order Pronounced on: 05.09.2024

Coram:

Hon’ble Ms. Lakshmi Gurung, Member (Judicial)
Hon’ble Sh. Charanjeet Singh Gulati (Technical)

Appearances:

For the Applicant: Adv. Mr. G Aniruth Purusothaman



Per: Sh. Charanjeet Singh Gulati Member (Technical)

1. The Company Petition (IB) No. 1285/IBC/MB/2021 was filed by M/s Adecco India Private Limited - Operational Debtor under Section 9 of the code before this Tribunal. On 14.07.2022, the Petition was admitted, and CIRP was initiated against the Corporate Debtor, further the Applicant herein was appointed as Interim Resolution Professional (IRP).
2. A Public Announcement in Form A was made by the IRP on 21.07.2022 in Indian Express and Lok Satta to invite claims from the creditors of the Corporate Debtor. Accordingly, Committee of Creditors (COC) was formed and the 1st meeting of the COC was conducted on 16.08.2022.
3. During the 2nd meeting of the COC which was held on 14.09.2022, the creditors voted in favor of the Applicant to continue as the Resolution Professional of the Corporate Debtor. The Applicant appointed 2 individuals for Valuing Plant & Machinery and 2 individuals for Valuing Securities and Financial assets of the Corporate Debtor.
4. During the 3rd meeting of the COC held on 16.01.2023, the creditors voted in favor of the resolution to file an Extension Application for 90 days for the period of CIRP.
5. The Applicant informed the COC that although the CIRP commenced on 14.07.2022, but due to no forthcoming data at the right time, the Resolution Professional could not complete the process within the initial 180 days and had sought extension of time by filing an I.A. No. 379 of 2023 for extension of the CIRP period for further 90 days. The Tribunal vide its order dated 31.01.2023 granted extension of 45 days in the CIRP Period stating that as there are no operations and no assets available with the Corporate Debtor, hence it is not a fit case for extension of 90 days. During the meeting, the Applicant had informed the COC members that the CIRP period of the Corporate Debtor will expire on 24.02.2023 as per the order dated 31.01.2023 of the Tribunal.



6. On 21.02.2023, the 4th meeting of the COC was held where the Resolution Professional placed the draft report submitted by the Registered Valuer of the Plant & Machinery and Security & Financial assets: -

Sr. No.	Name of the individual	Particulars	Fair Market Value	Liquidation value
1.	Mr. Modilal Pamecha	Securities & Financial Assets	nil	nil
2.	Mr. Ankit Gupta	Securities & Financial Assets	nil	nil
3.	Mr. Yogesh C. Rasal	Plant & Machinery	25,000/-	20,000/-
4.	Mr. Ankit Gupta	Plant & Machinery	24,000/-	19,200/-

7. The following resolutions were proposed in the 4th meeting of COC held on 21.02.2023: -

Resolution No. 1	Approval for liquidation of Corporate Debtor
Resolution No. 2	Appointment of Liquidator & his fees
Resolution No. 3	Estimate of the Liquidation Costs
Resolution No. 4	Assessment of sale as a going concern.
Resolution No. 5	Nonpublication of Form G
Resolution No. 6	Ratification of expenses incurred by IRP/RP for the CIRP of Corporate Debtor up to the date of the meeting.
Resolution No. 7	Authorization to the Resolution professional for submitting the application under Section 43 of the IBC Code for preference, fraudulent transactions i.e., avoidance application.



8. The above mentioned resolutions were not approved by the CoC with the requisite majority i.e., 66% as M/s. Adecco India Pvt. Ltd. holding 36.94% of voting share has voted against the resolutions, whereas all other CoC members abstained from voting.
9. As per the Valuation Report for Assessment of Fair & Liquidation Value of Current and Non-Current Assets of M/s. Welkin IT Services Private Limited, under IBC Code, 2016 on Page No. 198 of the present I.A., the Fair Value and Liquidation Value as on 14.07.2022 was produced by Mr. Modilal Dhanraj Pamecha (Registered Valuer – Securities or Financial Assets bearing IBBI Registration No. IBBI/RV/06/2018/10070) as under: -

Particulars	Value as per Audited Balance Sheet as at 31/03/2021 (Rs.)	Fair Value (Rs.)	Liquidation Value (Rs.)
Current Assets			
Other Current Assets – Unbilled Revenue	2,57,05,243	NIL	NIL
Cash in Hand & Balance with Banks	16,000	NIL	NIL
Trade receivable	51,77,753	NIL	NIL
Non-Current Assets			
Long Term Loans and advances	1,35,83,236	NIL	NIL
TOTAL	4,44,82,232	NIL	NIL

10. The Applicant submitted through para 20 of his application that: -



“20. It is submitted that the due to non-availability of required data at appropriate time for preparation of Information Memorandum and also calling for expression of interest from the probable resolution applicants could not be completed as required under IBBI Regulation. Hence, as per section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 the Applicant has filed this present Application for the Liquidation of the Corporate Debtor.”

11. As, the CIRP period expired on 24.02.2023 and no Resolution Plan as per Section 30(6) of the Code has been received, it shall serve no useful purpose to keep the status of the Corporate Debtor as a going concern. Accordingly, this is a fit case to initiate liquidation of the Corporate Debtor. Section 33 (1) (a) of the Code is stipulated as under: -

33.(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.



12. In view of the provisions of Section 33(1)(a) of the Code and as per the facts and circumstances of the case, it is deemed fit to initiate liquidation proceedings against the Corporate Debtors, accordingly order is passed as under: -

ORDER

13. The Corporate Debtor M/s. Welkin IT Services Private Limited is hereby ordered to be liquidated.
14. We hereby appoint Mr. Rajendra Kishanrao Joshi bearing Registration No. IBBI/IPA-002/IP-NO1205/2021-2022/14020 as the Liquidator. Mr. Rajendra Kishanrao Joshi, filed his Written Consent to act as the Liquidator on 21.02.2023. As per the IBBI Website, his Authorization for Assignment is valid up to 30.06.2025.
15. The Liquidator appointed under section 34 of the Code shall have all powers of the Board of Directors, Key Managerial Personnel and the existing Board of the Corporate Debtor, the Key Managerial Persons and the partners shall cease to have effect.
16. The personnel of the corporate debtor shall extend all co-operation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.
17. The fees entitled to the Liquidator for the liquidation period including the period used for sale under clauses (e) and (f) of Regulation 32 shall be as per the Regulation 4 of IBBI (Liquidation Process) Regulations, 2016.
18. The Liquidation process shall be conducted in a manner as laid down under Chapter III of the Part II of Insolvency and Bankruptcy Code, 2016 and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.



19. The Corporate Debtor shall be liquidated by issuing a Public Notice stating that the Corporate Debtor is in Liquidation. The Liquidator shall send this order to the Registrar of Companies under which this company has been registered.
20. With respect to Section 52 of the Code, no suit or legal proceedings shall be instituted, by or against the Corporate Debtor. However, the Liquidator shall have the liberty to institute suit or legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority.
21. This Interlocutory Application has been filed under section 33 and 34 of IBC primarily for passing the order for liquidation. With respect to other prayers which are part of this application but are not considered for the purpose of liquidation, the applicant has the liberty to move appropriate applications against the parties from whom such relief is sought.
22. Registry is directed to send a copy of the order to Insolvency and Bankruptcy Board of India as well as the liquidator.
23. Hence, I.A. No. 2533 of 2023 in C.P. No. 1285 of 2021 is allowed in above terms and stands disposed of.

Sd/-

Charanjeet Singh Gulati
Member (Technical)

Vaishnavi, LRA

Sd/-

Lakshmi Gurung
Member (Judicial)