

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV**

IA-17/2024 in CP(IB)-814/MB/2021

Under Section 33 of the IBC, 2016

Nitin Om Kothari

...Applicant/
Resolution Professional

In the matter of

Suzlon Gujarat Wind Park Ltd.

...Financial Creditor

v/s

Sri Maruti Wind Park (India) Pvt. Ltd.

...Corporate Debtor

Order Pronounced on: **05.06.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant: Mr. Prakhar Tandon i/b Agam H. Maloo, Advocate.

ORDER

This is an Interlocutory Application filed on 10.01.2024 by Mr. Nitin Om Kothari, Resolution Professional, under Section 33 of the Insolvency and Bankruptcy Code, 2016 Regulations, 2016, seeking liquidation of **Sri Maruti Wind Park (India) Private Limited**.

Brief facts of the Application:

1. This Tribunal vide an order dated 09.02.2023 in Company Petition bearing C.P.(IB)-814(MB)/2021 filed under Section 9 of the IBC, 2016, by the Operational Creditor viz. Suzlon Gujarat Wind Park Limited (hereinafter referred to as the "Operational Creditor") is admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated on Sri Maruti Wind Park (India) Private Limited (hereinafter referred to as the "Corporate Debtor"). Mr. Nitin Om Kothari was appointed as Interim Resolution Professional (IRP) by this Tribunal vide the above admission order. He was later appointed as Resolution Professional (RP) of the Corporate Debtor by the CoC.
2. The Applicant submits that he issued public announcement in Form-A on 20.02.2023 inviting claims from the creditors of the Corporate Debtor and he received various claims based on which he constituted the Committee of Creditors (CoC). Thereafter, the First CoC meeting was held on 20.03.2023. The Applicant published Form G in two newspapers on 18.04.2023 inviting Expression of Interests (EoI) from Prospective Resolution Applicants (PRA). He received only two Expression of Interests. The RFRP along with Evaluation Matrix was issued to both the PRAs. However, no resolution plan was received from any of the PRAs. As the CIRP period was coming to an end on 17.08.2023, the CoC approved in the Eighth meeting held on 09.08.2023 for seeking extension of 90 days beyond 180 days. This Tribunal approved 90 days of extension of CIRP ending on 22.08.2023. In the Ninth CoC meeting held on 21.08.2023, it was decided to issue a new Form G. Accordingly, third time Form-G

was issued on 24.08.2023 in two newspapers, against which, three PRAs expressed interests. The Applicant also received EMD of Rs.5 lakhs each. In the 11th CoC meeting held on 08.11.2023, the Applicant informed receipt of two resolution plans out of three PRAs.

3. In the 14th CoC meeting held on 08.12.2023, the Applicant put the resolution plans for voting. The CoC did not approve the resolution plan. The same was informed to the members in the 15th CoC meeting held on 22.12.2023 and further put the agenda for Liquidation. Same was passed with 100% voting of the CoC members. The following resolution was passed in the said meeting:

“RESOLVED THAT pursuant to the provisions of the Insolvency and Bankruptcy Code, 2016 and the Rules and Regulations thereunder, the members of the Committee of Creditors hereby decide for the Liquidation of the Corporate Debtor namely Sri Maruti Wind Park (India) Private Limited u/s 33(2) and recommend the Hon. NCLT accordingly.”

Accordingly, the Applicant/RP filed this Application for approval of Liquidation of the Corporate Debtor.

4. In pursuant to the IA, the Applicant filed an additional affidavit wherein it is submitted that on the request of the CoC, the Applicant called Sixteenth CoC meeting on 28.02.2024 wherein the CoC members proposed the name of the Liquidator viz. Mr. Prasad Kamalakar Dharap having registration No.: IBBI/IPA-001/IP-P00702/2017-2018/11228 and the following resolution was passed with 100% voting of the CoC:

“RESOLVED THAT pursuant to the provisions of the Insolvency and Bankruptcy Code, 2016 and the Rules and Regulations thereunder, the members of the Committee of Creditors hereby approve the appointment of Mr. Prasad Kamalakar Dharap, Insolvency Professional Registration with IBBI/IPA-001/IP-P00702/2017-2018/11228, as Liquidator to carry out the functions entrusted by the provisions of the Insolvency and Bankruptcy Code, 2016, Rules and Regulations thereto.”

“RESOLVED FURTHER THAT the Committee of Creditors be and hereby approve the fee of the Liquidator. The fee payable to the Liquidator will be Rs. 60,000/- per month with a cap of Rs. 3,60,000/- for six months and if the assignment extends beyond period of one year, the fee may be renegotiated. Out of pocket expenses and GST extra.”

5. The proposed Liquidator has also provided the Consent in Form AA.
6. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
 - a. The Corporate Debtor viz. Sri Maruti Wind Park (India) Private Limited (CIN: U74900PN2011PTC138862) is ‘under liquidation’ w.e.f. the date of this order.
 - b. This Tribunal hereby appoints Mr. Prasad Kamalakar Dharap, an Insolvency Professional, having IBBI Registration Number: IBBI/IPA-001/IP-P00702/2017-2018/11228 as ‘Liquidator’ to conduct liquidation

process of Sri Maruti Wind Park (India) Private Limited as provided under Section 34(1) of the Code.

- c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The Liquidator to send this order to the RoC under which this Company has been registered.
- e. The Liquidator appointed under section 34(1) of the Code, will have all powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- h. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the

parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s. 33(5) of the Code.

- i. This liquidation order u/s 33(7) shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Applicant except to the extent of the business of the Corporate Applicant continued during the liquidation process by the Liquidator.
 - j. Moratorium declared vide Order dated 09.02.2023 in CP(IB)-814(MB)/2021, henceforth ceased to exist.
 - k. The Liquidator shall submit the progress report of liquidation periodically.
7. With the above directions, the IA-17/2024 in CP(IB)-814(MB)/2021 filed u/s 33 by the Applicant is hereby **allowed** and disposed of.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)