

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI**

IA(IBC)/1698(CHE)/2023

In

CP(IB) /230/CHE/2022

(filed under Section 33 of the Insolvency & Bankruptcy Code)

In the matter of M/s. Fipola retail (India) Private Limited.

MR. SUDHIR G.S

Resolution Professional of M/s. Fipola retail (India) Private Limited.

71/1 Hari Krupa, Mc Nicholas Road,

Off Ponnammallee road, Chetpet,

Chennai- 600 031.

... Applicant/Resolution Professional.

In the matter of

Edifice solutions Private Limited.

...Financial Creditor

-Vs-

M/s. Fipola retail (India) Private Limited

... Corporate Debtor

Order Pronounced on 8TH February, 2024

CORAM

SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Appearances:

For Applicant

: Mr. A.G. Sathyanarayana, Advocate.

ORDER

1. IA/(IBC)/1698(CHE)/2023 in CP/(IB)230/CB/2022 is an application filed under Section 33 of the Insolvency & Bankruptcy Code, 2016 (herein after termed as “the code”) by *Mr. Sudhir G.S*, Resolution Professional of *Fipola retail (India) Private Limited*, seeking reliefs as follows,

- a) *Pass orders requiring the Corporate Debtor to be Liquidated*
and

b) *Appoint Mr. Sankar Varadharajan, Insolvency Professional Having Reg no of IBBI/IPA-002/IP-N01057/2020-2021/13449 as Liquidator.*

2. M/s.Fipola retail (India) Private Limited, the Corporate Debtor, was admitted into The Corporate Insolvency Resolution Process (herein after referred to as 'CIRP') vide an order dated 02.05.2023 passed by this Adjudicating Authority. **Ms Deepa Venkat Ramani**, was appointed as the Interim resolution professional Thereafter **Mr Sudhir G S** has replaced IRP and is appointed as RP based on an application IA(IBC)/936(CHE)2023 vide order dated 15.06.2023.
3. From the compliance Certificate (Form H) attached along with the application the dates and events subsequent to initiation of Corporate Insolvency Resolution Process of the Corporate Debtor is given under,

S.No.	Date	Event
1.	05.05.2023	Publication of Public Announcement
2.	19.05.2023	Constitution of CoC
3.	02.06.2023	1 st Committee of Creditors (herein after referred to as "CoC") Meeting
4.	27.06.2023	Appointment of Registered Valuers
5.	17.07.2023	2 nd CoC Meeting
6.	23.08.2023	3 rd CoC Meeting –Resolve to Liquidate the CD
7.	05.09.2023	4 th CoC Meeting- Resolve to appoint the Liquidator.
8.	29.10.2023	End of 180 days of Corporate Insolvency Resolution Process Period.

4. It is stated that the Corporate Debtor has no prospects of revival of the Corporate Debtor and the cost of carrying of the CIRP process would outweigh the amount which could be realisable from the selling of the assets of the CD. Further it is submitted that there are no applications pending under section 43, section 45, and section 65 of IBC.

5. It is stated that during the 3rd COC meeting which was held on 23.08.2023 the members of the COC had unanimously recommended that the CD had to be liquidated. It is further stated that there is no prospect of their revival of the CD and COC members have unanimously informed that cost of carrying out the CIRP would outweigh the amount to be realised. The extract of the resolution passed in the 3rd COC meeting is as follows.

“Resolution” -1 “Resolve that The corporate Debtor – Fipola retail (India) Private Limited be liquidated as per the provisions of section 33(2) of the Insolvency and Bankruptcy code of 2016 as all the Coc members recommend for the Liquidation of the corporate Debtor”.

The extract of the resolution passed in the 4th COC meeting is as follows

Resolution 2: “Resolve that approval of the committee of creditors be and is hereby given to appoint Mr Sankar Varadharajan as the liquidator at the remuneration of Rs 1,00,000/- per month plus expenses at actual.

6. It is stated that the Applicant RP had expressed his unwillingness to continue as the liquidator and requested the CoC members to appoint another Insolvency professional as Liquidator.
7. It is stated that since the CoC found no prospect in continuing the Corporate Insolvency Resolution Process period, the above resolution for Liquidation of the Corporate Debtor has been passed taking into consideration the interest of the Corporate Debtor as well as all the other stakeholders concerned and thus directed the Resolution professional to file an application for Liquidation of the Corporate Debtor.
8. The Applicant/RP submitted FORM-H as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The same is placed in the typed set of papers filed with the application. On verification on the IBBI portal, it is seen that the proposed Liquidator **Mr. Sankar Varadharajan** has no disciplinary proceedings pending against him and has AFA valid till **02.04.2024** vide AFA Certificate number **AA2/13449/02/020424/202696**.
9. Heard the Ld. Counsel for the Applicant and perused the documents on record.
10. From the above facts and circumstances, considering the decision taken by the CoC of the Corporate Debtor, this Adjudicating Authority deems it fit to order Liquidation of the Corporate Debtor. Accordingly, we order liquidation of the Corporate Debtor by appointing **MR SANKAR VARADHARAJAN** with Reg. No: **[IBBI/IPA-002/IP-NO1057/2020-2021/13449]** (e-mail

ID: adv sankarirp@gmail.com) as the Liquidator to carry out the liquidation process subject to the following terms/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 up to date enjoined upon him.*
- 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 a suitable application before this Adjudicating Authority.*
- d) *The Registry is directed to communicate this order to the Registrar of Companies, Chennai and 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 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 individual 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 reports 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 cooperation in relation to the Liquidation process of the Corporate Debtor.*
11. With the above directions, **IA(IBC)/1698(CHE)/2023** in CP(IB)/230(CHE)/2022 stands **allowed** and disposed of.

-Sd-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)

Order pronounced under Rule 151 of NCLT Rules 2016, By Shri Jyoti Kumar Tripathi Member (Judicial) on behalf of the bench Comprising of Shri Jyoti Kumar Tripathi Member (Judicial) and Shri Ravichandran Ramasamy, Member (Technical).