



**INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**

**Casebook Issue**

**34:**

**Insolvency Tale of  
Ashok Transformers  
Private Limited**

**INSOLVENCY  
UNCOVERED**

## Index

<b>1. About Ashok Transformers Private Limited .....</b>	<b>2</b>
<b>2. Major Financial Creditors/Bankers.....</b>	<b>2</b>
<b>3. CIRP of Ashok Transformers Private Limited .....</b>	<b>3-4</b>
▪ <i>Darshan Y. Bhatt files an application for initiating CIRP under section 9 of the Insolvency and Bankruptcy Code, 2016</i>	
▪ <i>Order of Moratorium &amp; Public Announcement</i>	
▪ <i>Application for extension of Tenure of IRP</i>	
▪ <i>Application for Liquidation filed by RP</i>	
▪ <i>Affidavit/documents to be filed by RP on the Direction of NCLT</i>	
<b>4. Liquidation of Ashok Transformers Private Limited .....</b>	<b>5-6</b>
▪ <i>NCLT passes the Liquidation Order</i>	
▪ <i>Prayer made by Liquidator to the Tribunal</i>	
▪ <i>Appearance by the State tax Officer</i>	
<b>5. Timeline.....</b>	<b>7</b>
<b>6. Bibliography.....</b>	<b>8-9</b>

### **About Ashok Transformers Private Limited<sup>1</sup>**

Ashok Transformers Private Limited was incorporated on 06th April 1974. It is classified as Non-Government company and is registered at Registrar of Companies, Ahmedabad. Its authorized share capital is Rs. 200 Lakhs and its paid-up capital is Rs. 200 Lakhs. It is involved in Manufacture of television and radio transmitters and apparatus for line telephony and line telegraphy.

Directors of Ashok Transformers Private Limited are Mr. Rupesh Dilip Vakil and Mr. Shashikant Pritamlal Shah. Ashok Transformers Private Limited's Corporate Identification Number is (CIN) U32201GJ1974PTC002502 and its registration number is 2502.

Ashok Transformers Pvt. Ltd is an electrical/electronic manufacturing company having its registered office at Road no. 12, Udyognagar, Udhna, Surat, Gujarat, India.

### **Major Financial Creditors/Bankers**

The Financial creditor for Corporate Debtor ("CD") M/s. Ashok Transformers Private Limited were M/s Passion Comtrade Private Limited, M/s. Eloquence Tradex Private Limited and State Bank of India. The Operational Creditor of the Company was Mr. Darshan Y. Bhatt.

## **CIRP of Ashok Transformers Private Limited**

### **Darshan Y. Bhatt files an application for initiating CIRP under section 9 of the Insolvency and Bankruptcy Code, 2016 <sup>2</sup>**

Company filed Petition under Section 9 of the Insolvency & Bankruptcy Code, 2016 ("IBC") read with Rule 6 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority ) Rules, 2016 ("Rules"), by an Operational Creditor, namely, Mr. Darshan Y. Bhatt, (hereinafter referred as 'the Creditor') against a Corporate Debtor, namely, Ashok Transformers Private Limited (hereinafter referred as 'the Debtor'), have default in making payment of it's admitted due to the tune of Rs. 2.36 lakhs towards accounting and consulting fees of the Operational Creditor.

The Creditor proposed the name of Mr. Sachin Bhattbhatt as the IRP. IRP confirmed that there is no Disciplinary Proceeding pending against him.

### **Order of Moratorium & Public Announcement<sup>3</sup>**

Moratorium shall have effect from 25th July, 2018 till the completion of the Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.

Public announcement of the Corporate Insolvency Resolution Process was made immediately as specified under section 13, IBC, 2016

### **Application for extension of Tenure of IRP<sup>4</sup>**

The order for appointment of IRP was passed on 25th July, 2018 but communicated to IPR on 04th August, 2018. However, IRP cannot constitute and convene Committee of Creditors meeting within a period of one Month. Therefore, instant

application is filed by IRP for extension of tenure of IRP by 10 days. As prayer made by IRP is reasonable, hence further 10 days is allowed by the Tribunal.

**Application for Liquidation filed by RP<sup>5</sup>**

Instant application filed by the applicant under section 33 and 34 of the IBC, 2016. Minutes of the Meeting dated 02<sup>nd</sup> October, 2018 of the Committee of creditors filed, wherein they had decided to go for liquidation.

The RP did not prepare Memorandum of Understanding and no endeavor was made to invite expression of interest. Notice issued to the RP as well as the suspended management and the members of Committee of Creditors, inviting their representation and to explain why do procedure has not been followed during the period of CIRP.

**Affidavit/documents to be filed by RP on the Direction of NCLT<sup>6</sup>**

Ld. Lawyer appearing on behalf of the Committee of Creditors filed an affidavit stating inter-alia that the company has not having any assets, as such RP has not invited expression of interest. Ld. Lawyer appearing on behalf of the RP has moved his application under section 33, 34 of the IBC.

Committee of creditors through it's Ld. Lawyer filed their reply and had orally conceded that they have no objection, if liquidation order is passed. State Bank of India submitted a letter dated 10th June, 2019, wherein it stated that there is no dues against the Corporate Debtor.

The Tribunal directed the RP to file the voting percentage and date of expiry of the CIRP period. The said fact was also not mentioned in the Minutes as well as resolution, so passed by the Committee of creditors. RP was directed to file affidavit for the same.

### **NCLT passes the Liquidation Order** <sup>7</sup>

RP filed affidavit on 05th July, 2019, stating that the period of CIRP ended on 21st January, 2019 and the liquidation resolution was passed with 100% voting by Committee of Creditors.

RP through its Ld. Counsel filed under section 33 & 34 of IBC, 2016, filed application for liquidation of the Corporate Debtor, under the resolution passed by the CoC. During CIRP, no resolution plan was submitted; therefore, the members of the CoC decided for liquidation of the Corporate debtor. CoC in its 04th meeting on 02nd October, 2018 resolved to liquidate the Corporate Debtor with 100% voting shares. The Adjudicating Authority appointed the Mr. Sachin Dinkar Bhattbhatt, RP as the Liquidator under section 34(1) of the Code. Liquidator was directed to issue Notice for public announcement stating that Corporate Debtor is under Liquidation.

The Liquidator to send an intimation to the Registrar of Companies, with which company was registered. Liquidator to act as per Section 35 of the IBC, 2016, subject to directions of the Adjudicating Authority.

### **Prayer made by Liquidator to the Tribunal**<sup>8</sup>

1. Application filed under Section 60(5)(c) r.w. Section 35(1) of the IBC

Application filed under Section 60(5)(c) r.w. Section 35(1) of the IBC with a prayer, to issue order to the Registrar of Companies, Gujarat, Dadra & Nagar Haveli, for allowing applicant to file hard copy of INC 28 for Compliance of Liquidation of M/s Ashok Transformers Private Limited, Company struck off by the Register of the ROC vide order dated 14th August, 2018 passed under section 248(5) of the Companies Act, 2013.

2. Allow Applicant to realize sale and dispose of the Assets and properties of the Corporate Debtor under liquidation and further allow to open the Bank Account to deposit the amount realized from sale of assets of the Corporate Debtor.
3. Any other relief as may deem fit in the interest of Justice.

As the Company is “struck” off the software is not going accept Form INC 28. Under such circumstance, the application so filed by the liquidator seeking director upon the ROC is a futile exercise and mere wastage of the resources of the Bench. Accordingly, application is not maintainable at this stage.

**Appearance by the State tax Officer<sup>9</sup>**

The matter was first listed on 19<sup>th</sup> November, 2019, the matter was again listed on 03<sup>rd</sup> December, 2019 but none appeared on behalf of State tax officer. the matter then listed on 18<sup>th</sup> January, 2019, on that day the matter was adjourned on the ground of absence of conducting lawyer Mr. Soham Joshi. Mr. Soham Joshi submitted that he has not filed Vakalatnama and requesting time again. The Tribunal gave a last chance to Mr. Soham Joshi and matter was adjourned.

## Timeline



- 25.07.2018
- NCLT admitted application for CIRP.



- 25.07.2018
- Order of Moratorium & Public Announcement



- 10.09.2018
- Application for extension of Tenure of IRP



- 25.02.2019
- Application for Liquidation filed by RP



- 05.07.2019
- Liquidation Order passed by NCLT



- 19.11.2019
- Several Prayer made by Liquidator



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