IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-V

IA-1893/2025
in
IB-2083/ND/2019

IN THE MATTER OF:
M/S MODERN CREDIT PVT LTD

...FINANCIAL CREDITOR

VERSUS

M/S KPG INTERNATIONAL PVT LTD

...CORPORATE DEBTOR

AND IN THE MATTER OF:
KOTAK MAHINDRA PRIME LTD
(Through Mr. Shashank Mishra)

...APPLICANT

VERSUS

SUNIL KUMAR AGRAWAL
(RESOLUTION PROFESSIONAL OF M/S KPG INTERNATIONAL PVT LTD)

...RESPONDENT NO. 1

MS. RAMA GUPTA
(RESOLUTION APPLICANT OF M/S KPG INTERNATIONAL PVT LTD)

...RESPONDENT NO. 2

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)
MS. REENA SINHA PURI,
HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 14.10.2026

PRESENT:

For the Applicant	**:**	Mr. Dhruv Gupta, Adv.
For the RP	**:**	Mr. Rakesh Kumar, Ms. Preeti Kashyap, Mr. Ankit Sharma, Advs.
For the SRA	**:**	Mr. Anant Gautam, Mr. Aman Gahlot, Mr. Rishi Chauhan, Advs.

ORDER

1. This is an application filled by Kotak Mahindra Prime Ltd, a secured Financial Creditor of KPG International Pvt. Ltd (Corporate Debtor), (Applicant) under 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016, seeking following relief:

> *I. Direct the Respondents to allow the sale of the Vehicle and to deposit the proceeds therefrom in a Fixed Deposit in accordance with the Resolution passed by the COC in its 17th meeting dated 29.01.2025,*
>
> *II. Pass such other further order(s)/ direction(s) which this Hon'ble Adjudicating Authority may deem fit and proper in the circumstance of the case.*

2. The dispute pertains to a Mercedes-Benz E200, 2017 model (Vehicle), purchased by the Corporate Debtor with a loan of ₹53,64,000/- (Rupees Fifty-Three Lakh Sixty-Four Thousand only), sanctioned by the Applicant under a Loan Agreement dated 29.11.2017.

3. The Corporate Debtor was admitted into the Corporate Insolvency Resolution Process (CIRP) by this Adjudicating Authority on 27.01.2020. Thereafter, Kotak Mahindra Prime Limited filed its claim for ₹44,32,367/- on 27.08.2020, which was duly admitted by the Resolution Professional.

4. The Mercedes-Benz was surrendered by the Corporate Debtor on 10.10.2020 and has since remained in the possession of Kotak Mahindra Prime Limited, being hypothecated to it as security for the loan. As per the Valuation Report dated 13.01.2025, the fair market value and liquidation value of the Mercedes-Benz E200 bearing Registration No. DL10CK2323,

Chassis No. WDD2131426L009822, and Engine No. 27492031194578, have been assessed at ₹14,50,000/-.

5. In view of the depreciating value of the Mercedes-Benz, the Committee of Creditors (CoC), in its 17th meeting held on 29.01.2025, resolved to sell the vehicle by adopting the procedure followed for the sale of HDFC Bank's BMW, as approved by this Adjudicating Authority in IA/4511/2023 in CP (IB) 2083/ND/2019.

6. The CoC observed that the Mercedes-Benz is not essential to the business operations of the Corporate Debtor and that its continued retention would result in further depreciation and additional costs. The Corporate Debtor is engaged in the business of importing, exporting, and dealing in readymade garments, and the Mercedes-Benz is neither integral to its business operations nor essential to the insolvency resolution process. Accordingly, as recorded in the minutes of the 17th CoC meeting, the resolution approving the sale of the Vehicle was passed unanimously by the members present, representing 93.42% of the total voting share.

ANALYSIS AND FINDING

7. We have heard the learned Counsel appearing for the Applicant and perused the documents placed on record. Having regard to the facts and circumstances of the present case, we observe that the instant application has been filed by the Applicant in its capacity as a secured financial creditor.

8. It is observed that, in November 2020, this Adjudicating Authority directed the Directors of the Corporate Debtor to release the Mercedes-Benz to the

Applicant. Since then, the vehicle has remained parked at the Applicant's yard, incurring parking charges of ₹110/- per day, thereby progressively increasing the CIRP costs. Further, its fair market value and liquidation value have been assessed at ₹14,50,000/-. However, given the depreciating nature of the vehicle, its value continues to erode with the passage of time, compounded by the recurring parking charges, thereby resulting in further depletion of its value.

9. In the 17th meeting held on 29.01.2025, the CoC, representing 93.42% of the voting rights, resolved to sell the Mercedes-Benz by adopting the procedure approved by this Adjudicating Authority for the sale of HDFC Bank's BMW in IA/4511/2023 in CP (IB) 2083/ND/2019, noting that the Vehicle is not essential to the Corporate Debtor's business of import-export, and dealing in readymade garments and that its continued retention would entail further depreciation and additional costs.

10. The minutes of the 17th meeting of the Committee of Creditors ("**CoC**"), held on 29.01.2025, are annexed in the Application as Annexure A/5. The relevant extract of the resolution passed therein is reproduced below:

> "*The Legal Counsel of RP has suggested that the another vehicle Mercedes hypothecated with Kotak Mahindra Prime Ltd., the same line of action can be taken for sale. The matter was discussed in detail and* COC *has advised Authorized Representative of M/s kotak Mahindra Prime Ltd. to take necessary steps in the matter.*"

11. Therefore, in view of the Resolution passed by the CoC in its 17th meeting held on 29.01.2025, it is observed that the CoC by exercising its

'commercial wisdom', passed a resolution allowing the sale of the Mercedes-Benz and as such can't be put to question. Further, in view of the observations made hereinbefore and in order to preserve the value of the vehicle by liquidating it and securing it in the form of an FDR, we deem it just in the interest of justice to allow the sale of the Mercedes-Benz.

12. Accordingly, the Applicant (Kotak Mahindra Prime Ltd) is allowed to sell the Mercedes Benz E200 (2017 model), Registration No. DL10CK2323, Chassis No. WDD2131426L009822, and Engine No. 27492031194578, and to deposit the proceeds therefrom in the form of an FDR with lien in favour of the Kotak Mahindra Prime Ltd, and the same be handed over to the RP of the Corporate Debtor.

13. In view of the above said direction, the Application, **IA-1893/2025 stands allowed.**

Sd/-
REENA SINHA PURI
MEMBER (TECHNICAL)

Sd/-
MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)