



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. NO. 2902 OF 2022
IN
COMPANY PETITION (IB) NO. 946/ND/2019

IN THE MATTER OF:

MR. SAHIL GARG & ORS.

...OPERATIONAL CREDITOR

VERSUS

WAVE GLOBAL EDUCATIONAL SERVICES PRIVATE LIMITED

...CORPORATE DEBTOR

IN THE MATTER OF:

RADHEY SHYAM YADAV

**HAVING OFFICE AT: 1203-1205, VIJAYA BUILDING,
17, BARAKHAMBA ROAD, CONNAUGHT PLACE,
NEW DELHI - 110001**

...APPLICANT/LIQUIDATOR

VERSUS

- 1. CORSALITE EDUCATION SERVICES PRIVATE LIMITED
SY NO 37/A 37P, PLOT NO. 6P, 2-91/77/2/ST/2,
2ND FLOOR, SIGNATURE TOWERS,
KONDAPUR HYDERABAD (TG) - 500084**

...RESPONDENT NO. 1

- 2. MR. SUBBARAO SIDDABATTULA,
DIRECTOR & CHAIRMAN OF CORSALITE EDUCATION SERVICES
PVT LTD,
AND EX-DIRECTOR & EX-CHAIRMAN OF CD
Address:
312 & 313, ADITYA TRADE CENTRE,
AMEERPET, HYDERABAD**

...RESPONDENT NO. 2

- 3. MS. ILANGOVEL THULASIMANI,
DIRECTOR & CHAIRMAN OF CORSALITE EDUCATION SERVICES
PVT LTD,
AND EX-DIRECTOR & EX-CHAIRMAN OF CD
28, KUTTAPPALAYAM KOLANALLI,
ERODE, TAMIL NADU-638154**

...RESPONDENT NO. 3



4. **MS. CHARU NOHERIA**
DIRECTOR & CHAIRMAN OF CORSALITE EDUCATION SERVICES
PVT LTD,
AND EX-DIRECTOR & EX-CHAIRMAN OF CD
807, SECTOR - 8 PANCHKULA
HARYANA, INDIA 134109

...RESPONDENT NO. 4

5. **MR. ANNE SIVARAM**
ASSOCIATE OF CORSALITE EDUCATION SERVICES PVT LTD,
AND EX-DIRECTOR OF CD
A 21 CCI COLONY KARANKOTE,
K V RANGAREDDY ANDHRA PRADESH -501158

...RESPONDENT NO. 5

6. **MR. CHAITANYA NARRA**
ASSOCIATE OF CORSALITE EDUCATION SERVICES PVT LTD,
AND EX-DIRECTOR OF CD
5504, PANCHAVATHI APARTEMENTS, PRAGATHI NAGAR
(OPP NARAYANA COLLEGE), BACHUPALLI,
HYDERABAD TELANGANA -500090

...RESPONDENT NO. 6

7. **MR. NITIN KUMAR,**
ASSOCIATE OF CORSALITE EDUCATION SERVICES PVT LTD,
AND EX- FINANCE MANAGER OF CD
SY NO 37/A 37P, PLOT NO. 6P,
2-91/77/2/ST/2, 2ND FLOOR,
SIGNATURE TOWERS,
KONDAPUR HYDERABAD (TG) - 500084 IN

...RESPONDENT NO. 7

ORDER DELIVERED ON: 02.09.2025

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Liquidator : Adv. Varun Goel, Adv. Anuj Pandey
For the Respondent : Adv. Abhishek Gupta, Counsel for R-1 to 4
in IA 2902/2022



ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. The present interlocutory application i.e., **I.A. No. 2902 of 2022** has been filed by Mr. Radhey Shyam Yadav, Liquidator of M/s Wave Global Educational Services Private Limited (hereinafter referred to as Applicant/Liquidator) against M/s Axis Tutorials Private Limited (Respondent) under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking relief as stated below:-
 - a. To direct the Respondent and its Directors to pay the amount of Rs. 3 Crore (Rupees Three Crore) and interest @ 18% per annum from 01.06.2018 till the actual date of full payment to the CD.
 - b. To direct the ex-Directors of CD (1) Mr. Subbarao Siddabattula, (2) Ms. Charu Noheria, (3) Mr Ilangovel Thulasimani, (4) Mr. Anne Sivaram and (5) Mr. Chaitanya Narra and (6) Mr. Nitin Kumar, ex-Finance Manager of CD to disclose the assets and documents and handover the same to Liquidator and to extend their cooperation to the Liquidator immediately while performing the obligations/duties /responsibilities required under the provisions of the Insolvency and Bankruptcy Code, 2016.
 - c. Pass such other order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of this case.
2. **Submissions by the Ld. Counsel appearing on behalf of the Applicant**
 - i. The Corporate Insolvency Resolution Process (CIRP) was initiated against M/s. Wave Global Educational Services Private Limited (Corporate Debtor) vide this Tribunal's order dated 18.11.2019 in G.P. IB-946/ND/2019 and subsequently, liquidation order was passed on 11.08.2021 in IA No. 1313/ND/2021. The Applicant was appointed as the Liquidator vide order dated 11.08.2021.
 - ii. The records of the Corporate Debtor showed that the Company (CD) was taken over by M/s Corsalite Education Services Pvt Ltd on



14.07.2017 through a Business Purchase Agreement (hereinafter called BPA) dated 14.07.2017 between M/s Corsalite Education Services Pvt. Ltd., Respondent No. 1 (hereinafter called Buyer) through its Chairman of the Board, Mr. Subbarao Siddabattula and Corporate Debtor through its CEO & Director Mr. Rajeev Kumar Prasad with transfer of 100% shares of CD to the Buyer and the Buyer taking over all the Assets and Liabilities of CD for a consideration of Rs. 3 Crores (Rupees Three Crores) in installments starting from July 2017 till May 2018 as per the Appendix-A forming part of the said BPA.

- iii. The Respondent No. 1, the Buyer is a private limited company having CIN: U80300TG2014PTC093377, Regd. Address as SY NO 37/A 37P, PLOT NO. 6P, 2-91/77/2/ST/2 2nd Floor, Signature Towers, Kondapur Hyderabad- 500084. The latest Master Data of Respondent No. 1, the Buyer shows three Directors, viz, Subbarao Siddabattula, Mr. Ilango Vel Thulasimani and Ms. Charu Noheria.
- iv. The requirement for execution of the BPA were fulfilled on 14.07.2017 itself:
 - a. 100% transfer of shares from the existing shareholders of CD to Corsalite (6,700 shares of Rajiv Kumar Prasad and 3300 shares of Bimal Kumar transferred to Mr. Subbarao Siddabattula (Respondent No. 2) - one (1) share as sweat equity and balance 9999 shares to Corsalite Education Services Pvt. Ltd. (Respondent No. 1).
 - b. Mr. Subbarao Siddabattula (Respondent No. 2) as Chairman of Corsalite assumed charge of Chairman of CD.
 - c. Mr. Subbarao Siddabattula (Respondent No. 2) as Chairman of CD issued fresh appointment letters to the existing Directors of CD Mr. Rajiv Kumar Prasad and Mr. Bimal Kumar.
- v. That with fulfilment of all conditions precedent on 14.07.2017 itself, the Closure of BPA was completed and hence acquisition of CD by Respondent No. 1, the Buyer was complete on 14.07.2017 itself and



all liabilities of the CD were the responsibility of the Buyer thereafter.

- vi. After completion of acquisition on 14.07.2017, the control of CD was fully taken over by the Buyer as proved from the letter head of the CD which was modified to include name of Corsalite by adding a suffix "Powered by: Corsalite" after the name of CD. Ms. Charu Noheria (Respondent No. 4) was appointed Director of CD from the day 1 of its takeover by the Buyer and took actual control from existing directors. Ms. Charu Noheria (Respondent No. 4) was having full responsibility of financial matters and setting up of a new coaching centre at Janakpuri.
- vii. It was submitted that the Directors from Respondent No. 1, the Buyer subsequently resigned en block abruptly from the board of CD in the month of August 2018 without fulfilling their liabilities as per BPA which is found to be malicious.
- viii. Since there is no cancellation of the Business Purchase Agreement dated 14.07.2017 between the Buyer, i.e., Corsalite Education Services Pvt Ltd and CD, the Buyer (Respondent No. 1) automatically still continues to be responsible for mitigation of Liabilities of the CD which was acquired by the Buyer with all Assets & Liabilities.
- ix. Vide email dated 25.06.2020 and a reminder dated 16.09.2020 to Corsalite (Buyer) the request was made to clear the outstanding dues of Rs. 3 Cr and interest which was not responded.
- x. Since no response was received on communication including reminder through email, a Legal Notice dated 14.09.2021 was sent to Corsalite Education Services Pvt. Ltd. (Respondent No. 1) and its Directors (Respondents- 2 to 4). The Respondent has duly replied to the Legal notice but in an evasive manner vide response notice dated 07.10.2021.
- xi. That the Business Purchase Agreement dated 14.07.2022 between Buyer and CD continues till date unless the same is cancelled as per terms and conditions of BPA. The last sentence of BPA clause 2



(d) (i) specifically stipulates as -*"In case of unpaid liability in any given month, the said amount should be carried forward and added to the upcoming month liability payment amount until all liabilities are paid off."*

3. Reply on behalf of the Respondent No. 1 to 4

- i. It is humbly submitted that the Corporate Debtor and Respondent No. 1 entered into a business purchase agreement dated 14th July, 2017 (hereinafter referred as "BPA"), wherein, the Respondent No. 1 agreed to buy and Corporate Debtor agreed to sell business of the Corporate Debtor for consideration of Rs. 3,00,00,000/- to be paid by the Respondent No. 1 in instalments as per terms and conditions of the BPA upon transfer of assets as enumerated under the BPA. In other words, it is humbly submitted that all the payments were conditional and contingent to the transfer of the assets as listed under clause 1 of the BPA. It is pertinent to mention that, the Corporate Debtor/Applicant never transferred or assigned any assets as enumerated under the BPA to Respondent No. 1, therefore it can be determined that the transaction as contemplated under the BPA was never fructified.
- ii. It has been submitted by the Respondents that the BPA did not have any clause with regard to completion of condition precedent. On the contrary it has been submitted that pursuant to BPA, the following assets were supposed to be transferred in the name of Respondent No. 1 by 31st July 2017.
- iii. It is submitted that, the Applicant has failed to provide all the material facts and circumstances pertinent to the BPA, as the Corporate Debtor and Respondent No.1 who were a party to the BPA have only executed the BPA on 14.07.2017. The transaction (takeover) envisaged under the BPA shall only be considered as 'fulfilled' as and when the terms and conditions to be fulfilled prior to the closing date are completed and fulfilled.



- iv. The shares of the Corporate Debtor were transferred to first Respondent No. 1 and thereafter from respondent No. 1 to the Respondent 2, 3 and 4. However, the contention of the Applicant that the transaction as contemplated under the BPA was fulfilled is false since as per Clause 1 of the BPA none of the assets including intellectual property, fixed assets of the Corporate Debtor, customer list were ever transferred to the Respondents. It is humbly submitted that Applicant has failed to provide sufficient proof to substantiate that the transaction was fulfilled and has only provided the copy of BPA as proof to substantiate the same. In furtherance to the above, it is also submitted that the BPA itself cannot be a definitive document or sufficient proof to substantiate that a takeover was completed by the Respondents as on 14.07.2017.
- v. The Respondents further submit that, the Respondent No. 2 and Respondent No. 3 were appointed on the board of directors of the Corporate Debtor on 5th February 2018 and Respondent No. 4 was appointed on the board of directors of the Corporate Debtor on 14th July 2018. It is pertinent to mention that during the period of appointment of Respondent No. 2, Respondent No. 3 and Respondent No. 4 the business of the Corporate Debtor did not generate any profit.
- vi. It is humbly submitted by the Respondents that Respondent No. 2, Respondent No. 3 and Respondent No. 4 had no obligation under the BPA, since they were not made parties to the BPA and the BPA was executed only with Respondent No. 1, i.e., Corsalite Education Services Private Limited & Ors. On the contrary, the Corporate Debtor has in fact breached the terms of the BPA by not transferring any intellectual property, all fixed assets (tangible and intangible) and customer lists, therefore the Applicant cannot make false submissions now that the Respondent No. 1 failed to pay the consideration under the BPA amounting to Rs. 3,00,00,000/-.



- vii. It is humbly submitted that, upon failure by the Corporate Debtor to fulfil its conditions under the BPA, the Respondent No. 1 was not liable to make any payments under the Agreement for the reason that upon failure of the Corporate Debtor to transfer assets the BPA stood terminated pursuant to clause 9 (a) of the BPA on 31st July, 2017 itself since closing as enumerated under the BPA did not occur on or before 31st July, 2017.
- viii. It is pertinent to mention that, there is no such appointment of Respondent No. 2 as the chairman of the Corporate Debtor, further, Respondent No. 2 was appointed as director only on 05.02.2018. In furtherance to the foregoing, the Respondent No. 2 was never paid any remuneration as a director of the Corporate Debtor during his entire tenure as a director of the Corporate Debtor.
- ix. It is submitted that there was no contractual obligation between the Corporate Debtor and Respondent No. 2, Respondent No. 3 and Respondent No. 4 under the BPA. It is pertinent to mention that the Respondent No. 2, Respondent No.3 and Respondent No. 4 were appointed as directors beyond the terms of the BPA and their appointment as directors cannot be linked to the transaction as contemplated under the BPA. The Respondents submit that, Respondent No. 2, Respondent No. 3 and Respondent 4 resigned from the board of the directors of the Corporate Debtor on 25th August 2018 and further transferred all their respective shareholding in the Corporate Debtor to Ms. Rekha Gautam.
- x. It is submitted that the BPA was already expired on 31.07.2017 as the transaction contemplated under the BPA could not be complete on or before 31.07.2017 and further due to material breach by the Corporate Debtor to transfer assets, it can be conclusively determined that the BPA was terminated. Since the BPA was terminated and none of the assets held by the Corporate Debtor were transferred or assigned to the Respondent No. 1. the



contention of the Application to make payment of consideration under the BPA not legally tenable.

- xi. It is humbly submitted that the Respondent No. 1 had given an amount of Rs. 1,50,00,000 Cr as loan to the Corporate Debtor. Thereafter the Respondent and the Corporate Debtor entered into a settlement agreement dated 14th January, 2019, wherein the Corporate Debtor guaranteed to repay Rs. 1,50,00,000/- to the Respondent No.1 towards repayment of unsecured loan of Rs. 1,25,46,804/- and adjustment of outstanding invoices of Rs. 24,53,196/-. Clause 1 b of the said agreement stated the following:

"The above payment shall be made to the lender within 2 years from the date of this agreement or Borrower operations are getting stabilized or Borrower finding any investor to invest in the Borrower company, whichever is earlier".

As per the terms and conditions of the said agreement, it is clear that the Corporate Debtor was contractually liable to pay the entire amount of Rs. 1,50,00,000/-. It is hereby the case of the Respondent No. 1 that the entire amount of Rs. 1,50,00,000/- was claimed under the CIRP process of the Corporate Debtor, but the same was rejected illegally by the Applicant without relevant justifications.

ANALYSIS AND FINDINGS

4. We have heard the Ld. Counsel for both the parties, and perused the averments made in the application, reply of the Respondents and written submissions along with the documents enclosed with the application.
5. Before we go into the facts of the case, it is important to refer to certain provisions of the Code, Section 35(d) of the Code authorises the Liquidator to take such measures and to protect and preserve the assets and properties of the Corporate Debtor as he considers necessary. Furthermore, under Regulation 39 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the Liquidator



shall endeavour to recover and realize all assets of and dues to the Corporate Debtor in a time bound manner for maximization of value for the stakeholder. Thus, the Liquidator is possessed with passable powers under the Code to initiate proceedings on behalf of the Corporate Debtor, and does not necessarily need prior approval under Section 33(5) of the Code for this purpose, which in any case is procedural in nature, as also in the facts of the instant case, such prior approval, if was sought, could not have been denied.

6. It is not in dispute that the Corporate Insolvency Resolution Process (CIRP) was initiated against M/s Wave Global Educational Services Private Limited (Corporate Debtor) vide this Tribunal's order dated 18.11.2019 in C.P. IB-946/ND/2019 and subsequently, liquidation order was passed on 11.08.2021 in I.A. No. 1313/ND/2021. The Applicant was appointed as the Liquidator vide order dated 11.08.2021.
7. It is the contention of the Liquidator that the Respondents, under cover of a business purchase agreement dated 14.07.2017, took over the business and assets of the Corporate Debtor, but failed to make good the consideration in full. The Respondents continue to be in possession of books of account, statutory records, intellectual property and other valuable data of the Corporate Debtor which rightfully belong to the CD in liquidation.
8. The Respondents have resisted the Application on the ground that the transaction was genuine, duly supported by documentation, and that the Liquidator has suppressed material facts. They rely upon the Business Purchase Agreement, audited statements, bank records, and share transfer form to show bona fide dealings.
9. On consideration of the pleadings, this Adjudicating Authority is satisfied that the Liquidator has demonstrated that monies are due to the Corporate Debtor from the Respondents, which remain unpaid. The records relied upon by the Respondents themselves show that consideration claimed to have been paid is not fully reflected as received by the Corporate Debtor. The Corporate Debtor having gone into liquidation, any dues payable by the Respondents are required to be



refunded so as to augment the liquidation estate and safeguard the interest of creditors.

10. Section 60(5) of the Code vests this Tribunal with residuary jurisdiction to issue directions necessary for the conduct of liquidation. Ensuring refund of amounts belonging to the Corporate Debtor squarely falls within such jurisdiction.
11. Accordingly, this Application is admitted, and the following directions are issued:
 - i. The Respondents shall within four weeks refund to the Liquidator being the amount due and payable to the Corporate Debtor. Any amount so received by the Liquidator shall be deposited in the Liquidation Account of the Corporate Debtor and form a part of the Liquidation Estate of the Corporate Debtor.
 - ii. The Respondents shall hand over to the Liquidator all statutory books, records and documents of the Corporate Debtor in their custody and extend their cooperation to the Liquidator.
12. In the result, the present **I.A. NO. 2902/ND/2022 is disposed of in above terms.**

Sd/-

**ATUL CHATURVEDI
MEMBER (TECHNICAL)**

Sd/-

**MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)**