



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -I)
KOLKATA

IA(IBC)(DIS.)/33 (KB)2024
in
CP(IB)/223(KB)2019

*An application Under Regulation 14 read with Regulations 38 of the IBBI
(Liquidation Process) Regulations, 2016.*

In the matter of

J.D.India Corporation

....Operational Creditor

Versus

Naresh Retail Mart LLP.

.... Corporate Debtor

And

In the matter of:

Mr.Nitai Basak , Liquidator of Naresh Retail Mart LLP

... Applicant

Order pronounced on: 13/11/2024

Coram:

Smt. Bidisha Banerjee : Member (Judicial)
Shri Balraj Joshi, : Member (Technical)

Appearances (through video conferencing):

For Liquidator : Mr. Namrata Basu, Adv.
Ms.Anushka Dhar, Adv.
Mr.Netai Basak, Liquidator

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O R D E R

Per: Bidisha Banerjee, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)(DIS.)/ 33 (KB)2024-** is an application filed Under Regulation 14 read with Regulations 38 of the IBBI (Liquidation Process) Regulations, 2016 by the Liquidator of **Naresh Retail Mart LLP**, the Corporate Debtor, seeking for an order of early dissolution of the Corporate Debtor and to allow the sole Financial Creditor holding 99.45% of the Stakeholders' Consultation Committee to take over the unsold assets of the Corporate Debtor at a price of Rs. 3,48,495 (reserve price fixed for the 2nd failed auction'). This application is supported by an affidavit duly affirmed by the Liquidator.
3. This Adjudicating authority *vide* its order dated 18/09/2023 in IA(IB) 559/2022 being CP(IB)/223KB)2019, had ordered Liquidation process of the Corporate Debtor and appointing **Mr.Netai Basak** as the Liquidator.
4. In terms of regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 ("**Liquidation Process Regulations**") public announcement in Form B was made on 22/09/2023 inviting claims from the stakeholders. The public announcement was published by the Liquidator in Newspapers –in 'Financial Express' in 'English and ' Ekdin (Bengali) Newspapers of Kolkata edition calling upon stakeholders to submit their proof of claims as on the Liquidation Commencement Date.(**Annexure-C**).
5. That it is submitted that 1st SCC meeting held on 22/09/2023 and 2nd SCC meeting held on 13/11/2023 comprised of the members of CoC during CIRP.
6. It is submitted that on 25/09/2023 a letter was issued by the Liquidator to the Registrar of Companies intimating the commencement of Liquidation of the Corporate Debtor.

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7. On 27/09/2023, the Liquidator issued a letter to the Union Bank of India, Kasba Branch for opening of Bank Account.
8. It is submitted that the applicant received 3 claims and after receipt of the claims a Stakeholders' Consultation Committee was formed on 16/11/2023 at the 3rd SCC meeting constituting of one Financial Creditor (union Bank of India) holding 99.4%, one Government due (ESIC) holding 0.1% and one Operational Creditor (Megamall Management Services Pvt.Ltd.) holding 0.45%.
9. The Liquidator appointed 4 (Four) of IBBI Registered Valuers 2 each for Securities and Financial Assets and Plant and machinery. The Valuation reports have been received from the said valuers.
10. It is submitted that the Liquidator appointed a Transaction Auditor on 16/11/2023 and obtained a report which states that transaction audit was conducted for the period 30/11/2018 to 21/10/2019 and found that there has been no transaction under section 43, 45,50,66, of the IBC, 2016. That the Auditor could not conduct the audit for the period prior to this due to non – availability of data.
11. 3rd SCC meeting was held on 08/12/2023. 4th SCC meeting was held on 10/01/2024, wherein it was deliberated that the miscellaneous goods and assets lying in the rented godown located at 8/6 Kasundiya, 2nd bye lane, Howrah 711104.
12. The Liquidator made a paper publication of Sale Notice in one Bengali Newspaper (EkDin) and one in English Newspaper (Financial Express), both Kolkata edition on 15/01/2024 for sale of the afore stated assets. The date fixed for the Auction was on 12.02.2024 but due to the fact that no prospective buyer had submitted their EMD the auction could not be completed.

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13. On 15/02/2024, the 5th SCC meeting was held and it was deliberated that a second round of Auction for sale be held. Accordingly, the Liquidator made another paper publication of Sale Notice in one Bengali Newspaper (Ekdin) and one in English Newspaper (Financial Express),both Kolkata edition on 19/02/2024 for sale of the afore-stated assets by reducing reserve price by 25%.The auction was held on 18/03/2024 as one person had deposited the Earnest money of Rs. 34,850/- but did not turn up for the auction. Due to the fact that the person backed out from participating in the auction could not be completed and the auction failed, the earnest money has been forfeited.
14. 6th SCC meeting was held on 22/03/2024, wherein it was deliberated that the SCC shall not proceed with the Auction sale for a third time. The transaction Auditor's report was considered and it was deliberated that the SCC shall not proceed any further with the transaction Auditor's report and also deliberated for early dissolution of the Corporate Debtor.
15. On 18/04/2024, the 7th SCC meeting was held wherein it was decided that the SCC shall proceed to file an Application for early dissolution and the Financial Creditor being Union Bank of India take over the assets of the Corporate Debtor lying at the rented godown for a consideration of Rs.3,48,495/- The same was resolved by 99.45 % of SCC members present and voting in favor.
16. In terms of Regulation 45(3) of IBBI (Liquidation Process) Regulation, 2016 the Liquidator has prepared the final report along with Form H dated 02/05/2024. Copy of the Final Progress along with Form H is annexed as **Annexure- P**, wherein it is inter-alia seen that there were no PUFE transactions.
17. Upon hearing the Ld. Counsel appearing for the Liquidator and perusing the documents annexed to the application, it appears that affairs of the Corporate Debtor were completely liquidated after the sole stake holder member has taken over the assets of the Corporate Debtor which could not be sold in e-

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auction. The Liquidation Account in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached along with Bank Statement showing “Zero” balance in the Liquidation Account, as there were no assets that were sold and proceeds realized..

18. In view of the above, it is seen that all the compliances have been made and there is no impediment in dissolving the corporate debtor and we order accordingly.
19. The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within **fourteen days** of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order. The Successful auction purchaser shall make the requisite filings with the RoC.
20. The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.
21. **IA(IBC)(DIS.)/33(KB)2024** is allowed with the above directions are hereby disposed of accordingly.
22. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
23. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
24. **CP(IB)/223(KB)2019** along with all connected IAs is disposed of accordingly.
25. File be consigned to records.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 13th day of November, 2024.

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