



**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

IA No.1909 of 2023
In
CP (IB) No.246/Chd/HRY/2018
(Admitted Matter)

Under Section 54 of the Insolvency and
Bankruptcy Code, 2016

IN THE MATTER OF:

M/s Touchlife Pharma Pvt. Ltd

..... Petitioner/Operational Creditor

Versus

M/s Alchemist Hospitals (Gurgaon) Private Ltd

..... Respondent/Corporate Debtor

AND

IN THE MATTER OF:

Sudhir Kumar Jain

Liquidator of

M/s Alchemist Hospitals (Gurgaon) Private Limited

305 GH64 Sector 20 Panchkula 134117

Registration No. IBBI/IPA-003/IP-N000131/2017-

2018/11457

.... Applicant/Liquidator

Order delivered on: 31.08.2023

Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)

HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

Present:-

For the Applicant/Liquidator: Mr. Pulkit Goyal, Advocate

Per: Subrata Kumar Dash, Member (Technical)

JUDGEMENT

The present application is being filed by the Liquidator of the Corporate Debtor i.e. M/s Alchemist Hospitals (Gurgaon) Pvt. Limited. under Section 54



of Insolvency and Bankruptcy Code, 2016 for the dissolution of Corporate Debtor i.e. Alchemist Hospitals (Gurgaon) Pvt Limited

2. The insolvency petition was filed by an Operational Creditor for the initiating insolvency proceedings under section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”) before this Tribunal, to initiate Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) against the Corporate Debtor. The said application, was admitted by the Tribunal, vide order dated 25/01/2019.

3. During the CIRP process of the Corporate Debtor , COC in its first meeting held on 2/3/2019 proposed to replace the Interim Resolution Professional with the applicant Mr Sudhir Kumar Jain as Resolution Professional and vide order dated 14.03.2019 the applicant was appointed as Resolution Professional by this Tribunal.

4. As no resolution plan was received in CIRP of the present corporate debtor , the resolution professional filed liquidation application for passing of the order of Liquidation under section 33(1) and (2) of the Code. The application was allowed vide order dated 23.08.2019. The applicant was also appointed as the Liquidator dated 23.08.2019.

5. The liquidation process started by making the public announcement accordance with Form B schedule II and manner specified in two newspapers one in English and one in Hindi both dated 26.08.2019 calling upon the stakeholders to submit their claims. No objections were ever received.



6. The bank account no. 50200018264850 in HDFC was used for the liquidation for the Corporate Debtor. The audit was regularly conducted by the Chartered Accountant. The Liquidator received the total claims of Rs 98,45,04,899/- from various stakeholders.

7. The Liquidator considered the average of the estimates of the values of the assets of the corporate debtor as arrived while conducting valuation during CIRP process as provided under Regulations 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016.

8. It is submitted that the corporate debtor was not a going concern and the work & operations of the company were shut down by the management prior to the initiation of CIRP itself. The liquidator formed the liquidation estate as per Section 36 of the IBC, 2016. The Liquidator realized the liquidation estate of the corporate Debtor for Rs 5,96,000/- and the recovered Rs 1,26,80,039/- from the Income Tax Department.

9. It is further submitted that the Liquidator formed the Stakeholders Consultation Committee (SCC) on 26.11.2019 and the SCC decided to sell the assets in parcels through E-auction. An amount of Rs. 38,89,417/- as on 23.08.2019 was available in the bank accounts of the corporate debtor. The total amount realized from the assets of the Corporate Debtor including bank balances was to the tune of Rs 1,72,93,649/-.

10. The exclusion of the period of COVID 19 and extension of period time to time approved by the NCLT.



11. Out of the total fund of Rs 1,72,93,649/-, Rs 1,60,00,000/- was distributed among the Financial creditors and the balance amount was utilized for the CIRP and Liquidation expenses.

12. It is averred that the liquidator had distributed the proceeds from the liquidation process of the corporate debtor to the stakeholders after adjusting the CIRP cost/ liquidation cost. Copy of the final report dated 09.06.2023 is attached as Annexure A-4.

S. No	Particulars	Amount (in Rs)
1	Proceeds from E-Auction received	6,55,693.00
2	Proceeds from TDS refund from Alchemist Hospitals Ltd. Panchkula	1,26,80,039.00
3	Bank Balance	38,89,417.00
Total		1,72,93,649.00
4	Less- CIRP Expenses	(2,92,042)
	Liquidation Expenses	(4,96,242)
5	Amount of Realization (Exclusive of Liquidation Costs)	1,65,05,365.00
6	Less Liquidator's fee upon realization (inclusive of Tax)	3,24,973.00



7	Amount distributed to Stakeholder	1,60,00,000.00
8	Liquidator's fee upon distribution to Stakeholder (inclusive of Tax)	1,80,392.00
9	Fees due to Liquidator (6+8)	5,05,365.00
	Total Liquidation Expenses incurred in Liquidation Process	10,01,607.00

The Liquidator had provided the following services:

1. Carried out the whole process of Auction till distribution of realized amount.
2. Adhered to many compliances as per the Adjudicating Authority and IBBI
3. Prepared various reports like Asset Memorandum, filed multiple Progress Reports, Preliminary Report, Sale Report, formed Liquidation Estate, etc.
4. Complied with all the duties and responsibility of a Liquidator

13. The recovery of Rs 13,54,752/- from the Income Tax Department on account of TDS was allowed by this Tribunal but the Income tax Department has filed an appeal with the Hon'ble NCLAT New Delhi challenging the order of this Tribunal. The pendency of the appeal one of the stakeholders of the Corporate Debtor M/s Technology Pars Ltd has given an undertaking that the Liquidator shall pursue the said appeal for the benefit of the stakeholders. The



sad stakeholder will receive and distribute to the beneficiaries of the corporate debtor as per waterfall mechanism u/s 53 of the Code.

14. We have heard the learned counsel for the applicant and have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

15. The present application is filed under Section 54 of the I&B Code. The relevant provisions of Section 54 of the IBC read as under:-

“Section 54 of the IBC

- 1. Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the adjudicating authority for the dissolution of such corporate debtor*
- 2. the adjudicating authority shall on application filed by the liquidator under Sub-Section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly*
- 3. A copy of an order under Sub-Section(2) shall within seven days from the date of such order , be forwarded to the authority with which the corporate data is registered.”*

16. Keeping in view, the above facts and circumstances of the case as well as Form-H filed Dairy No. 1968 dated 16.06.2023 and was re-filed on 16.08.2023, it is established that due process of Liquidation, as per extant provisions, was followed by the Liquidator. Therefore, the liquidation process is deemed to have been completed under Chapter III of Part II of the Code, and thus it would be just and proper for the Adjudicating Authority to dissolve the Company. No party is going to be affected by dissolving the company.

17. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54(2) of the Code, the Interim Application bearing IA



No.1909/2023 in CP (IB) No.246/Chd/Hry/2018 is disposed of with the following directions:

- (i) M/s Alchemist Hospitals (Gurgaon) Pvt Ltd the Corporate Debtor, is hereby dissolved with immediate effect;
- (ii) The Liquidator is directed to close the Liquidation Bank Account, if any, within three weeks from the date of receipt of the copy of this order.
- (iii) The Registry is directed to forward a copy of this order to the Concerned Registrar of Companies within a period of two weeks from today;
- (v) The Liquidator is also directed to forward copies of this order to all other statutory authorities connected with the affairs of the Company.
- (vi) The Liquidator, Mr. Sudhir Kumar Jain is discharged from his duties and responsibilities as the liquidator of the corporate debtor company. However, he will pursue the appeal pending before the Hon'ble National Company Law Appellate Tribunal, New Delhi against the order of this Authority dated 17.04.2023 and distribute the amounts realised, if any, as per undertaking annexed as Annexure-A7 of the application.

18. Accordingly, IA No. 1909/2023 is allowed and stands disposed of.

-sd-
(Subrata Kumar Dash)
Member (Technical)
August 31, 2023

SM/TBG

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(Harnam Singh Thakur)
(Member (Judicial))