

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (Court – I)  
KOLKATA**

**IA(IBC)1351(KB)2023  
In  
CP(IB)/231(KB)2019**

*An application under section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.*

*In the matter of:  
D. K. Jain Properties Private Limited*

*...Financial Creditor*

*-Versus-*

*M/s. Saraswati Sales Private Limited  
(CIN: U51909WB2008PTC130190);*

*...Corporate Debtor*

*Represented by its Liquidator –  
Mr. Shashi Agarwal,*

*.... Applicant/Liquidator*

**Date of Pronouncement: 23/11/2023**

***Coram:***

**Shri Rohit Kapoor**

**: Member (Judicial)**

**Shri Balraj Joshi**

**: Member (Technical)**

*Appearances through hybrid mode:*

For the Applicant/Liquidator

: Mr. Arun Kumar Mishra, Adv.  
Mr. Shashi Agarwal, Liquidator  
in person

**ORDER**

***Per: Rohit Kapoor, Member (Judicial)***

1. This Adjudicating Authority convened through hybrid mode.

2. **IA(IBC)/1351(KB)2023** is an application filed under section 54 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter called the “Code”*) read with regulation 45 of the IBBI (Liquidation Process) Regulations, 2016 (*hereinafter called the “Regulations 2016”*) by the Liquidator of **M/s. Saraswati Sales Private Limited** (*hereinafter called the “Corporate Debtor”*) praying for dissolution of the Corporate Debtor. This application is duly supported by an affidavit<sup>1</sup> affirmed by Mr. Shashi Agarwal, the Liquidator.
3. This Adjudicating Authority *vide its* order<sup>2</sup> dated 24/06/2019 on a Petition filed by D. K. Jain Properties Private Limited. (*Financial Creditor*) under section 7 of the Code read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 directed initiation of the Corporate Insolvency Resolution Process (*hereinafter called the “CIRP”*) against **M/s. Saraswati Sales Private Limited** (*Corporate Debtor*) appointing Mr. Shashi Agarwal, an Insolvency Professional as Interim Resolution Professional (*hereinafter called the “IRP”*). Liquidation order<sup>3</sup> was passed on 07/11/2019 appointing Mr. Shashi Agarwal, the applicant, as the Liquidator.
4. In compliance of regulation 12 of Regulations 2016, Public Announcement<sup>4</sup> of commencement of liquidation process was made in **Form – B** in “*Financial Express*” (English) and “*Aajkal*” (Bengali) on 09/11/2021 inviting submission of claims from the stakeholders of the Corporate Debtor. Accordingly, the Liquidator received the following claims from the stakeholders of the Corporate Debtor: -

Class of Creditors	No. of claims
Financial Creditors - Unsecured	1
Operational Creditors	223
Other Operational Creditors (Statutory Dues)	6
Employee/Workmen	43

<sup>1</sup> At pages 21 and 22 of the application

<sup>2</sup> Annexure “A” at pages 23 to 33 of the application

<sup>3</sup> Annexure “B” at pages 34 to 39 of the application

<sup>4</sup> Annexure “D” at pages 55 to 56 of the application

5. In Compliance of regulations 31(2) of Regulations, 2016, the Liquidator had submitted List of Stakeholders<sup>5</sup> with this Adjudicating Authority. In terms of regulation 31A of Regulations 2016, the Liquidator had constituted Stakeholders' Consultation Committee<sup>6</sup> (*hereinafter called "SCC"*) and submitted the same with this Adjudicating Authority. As there was no functional website of the Corporate Debtor, the List of Stakeholders with details of the number of claims received along with no of claims admitted/rejected by the Liquidator, was uploaded on the Website of IBBI<sup>7</sup>. The Liquidator had also annexed with this application List of Stakeholders<sup>8</sup> constituted before amendment and after the amendment of Regulations 2016.
6. It is stated by the Liquidator in the application that the Liquidator did not appoint any Valuer during the liquidation period as the Corporate Debtor had only fixed deposits as assets and during the CIRP period valuation reports with regard to Fair Value and Liquidation Value were duly prepared by IBBI approved Valuers. Copies of those valuation reports<sup>9</sup> form **Annexure "C"** to this application. The average Fair Value and Liquidation Value are Rs.7,56,786/- and Rs.6,46,581/- respectively.
7. In compliance of regulations 13 and 34 of Regulations 2016, the Liquidator had duly prepared and filed with this Adjudicating Authority Preliminary Report and Asset Memorandum<sup>10</sup> respectively.
8. As per regulation 41 of the Regulations 2016, the Liquidator had duly opened a liquidation account being **A/c. No. 000605034302** in the name of **"Saraswati Sales**

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<sup>5</sup> Annexure "E" at pages 57 to 69 of the application

<sup>6</sup> Annexure "G" at pages 87 to 102 of the application

<sup>7</sup> Averments in paragraph 16 at page 15 of the application

<sup>8</sup> Annexure "H" at page 103 of the application

<sup>9</sup> Annexure "C" at pages 40 to 54 of the application

<sup>10</sup> Annexure "F" at pages 70 to 86 of the application

**Private Limited- in Liquidation”** with the ICICI Bank, R. N. Mukherjee Road Branch, 20, R. N. Mukherjee Road, Kolkata<sup>11</sup>.

9. As per provisions of the Code and Regulations the Liquidator had duly intimated to Statutory Authorities<sup>12</sup>, as applicable, as follows: -

- (i) PF on 20/10/2020
- (ii) ESI on 20/10/2020
- (iii) Income Tax Department on 12/01/2021

10. It is stated in the application by the Liquidator that the Corporate Debtor had no valuable assets in comparison to the claim received during the liquidation period. Based on the audited accounts and numbers of claims received, the Applicant as the Resolution Professional never had the impression and/or opinion that transaction audit for preferential or fraudulent was necessary<sup>13</sup>. A copy of audited Balance Sheet<sup>14</sup> for the year ended 31/03/2019 forms **Annexure I**. However, during the liquidation period based on the numbers of claims received, the Liquidator formed an opinion that there might be some transaction prejudicial to the interest of the creditors. Hence, Transaction Auditor was appointed during the liquidation period on 14/01/2021. Accordingly, report from the Transactional Auditor was received on 26/03/2022.<sup>15</sup>

11. It is stated in the application by the Liquidator that in compliance of regulation 45 of Regulations 2016, Form H was prepared. The average liquidation value of the Corporate Debtor is Rs.6,46,581/- whereas the total realised amount from the financial assets of the Corporate Debtor is Rs.6,86,029/-. Since the CIRP costs and Liquidation cost is more than the amount realised from Financial Assets of the

<sup>11</sup> Compliance Certificate (Form H) at pages 233 and 234 of the application

<sup>12</sup> Compliance Certificate (Form H) at page 236 of the application

<sup>13</sup> Averments in para 18 at page 15 of the application.

<sup>14</sup> Annexure "I" at pages 104 to 116 of the application

<sup>15</sup> Averments in para 19 at page 16 of the application.

Corporate Debtor, no amount was left with the Liquidator for distribution among the stakeholders as per section 53 of the Code. However, the deficit amount towards the Liquidation Cost was contributed by the Financial Creditor<sup>16</sup>.

12. After taking into consideration of exclusion and extension the liquidation period had ended on 30/07/2022. Copy of the extension order<sup>17</sup> dated 31/01/2022 forms **Annexure “J”**.
13. It is further stated that the Bank Account of the Corporate Debtor was debit frozen by the bank officials in terms of the order received from the Office of the Assistant Collector wherein it was directed to mark lien on the account which was informed to the Liquidator by the Bank on 03/12/2022. Accordingly, in order to remove lien an application being IA(IBC)/433(KB)2023 was filed which came up for hearing on 17/04/2023. A copy of the order<sup>18</sup> dated 17/04/2023 forms **Annexure “K”**. However, the said account was de-frozen by the Bank on 06/05/2023 upon receiving a communication from the Office of the Assistant Collector directing the Bank to remove the lien from the aforesaid bank account. Hence, the said IA(IBC)/433(KB)2023 was dismissed on 16/05/2023 as infructuous. A copy of the said order<sup>19</sup> dated 16/05/2023 forms **Annexure “L”**.
14. In compliance of section 35(2) of the Code, the Liquidator during the liquidation period hold ten SCC meetings, copies of the minutes of all the ten SCC meetings<sup>20</sup> form **Annexure ‘M’**

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<sup>16</sup> Averments in paragraph 20 at page 16 of the application

<sup>17</sup> Annexure “J” at pages 117 and 118 of the application

<sup>18</sup> Annexure “K” at pages 119 and 122 of the application

<sup>19</sup> Annexure “L” at pages 123 of the application

<sup>20</sup> Annexure “M” at pages 124 to 172 of the application

15. The SCC at its 10<sup>th</sup> meeting held on 06/01/2023 has unanimously decided to dissolve the affairs of the Corporate Debtor. Copy of the minutes of 10<sup>th</sup> SCC meeting<sup>21</sup> forms **Annexure ‘N’**.
16. In compliance of regulation 15 of the Regulations 2016, the Liquidator had altogether filed Fifteen Periodical Progress Reports from time to time before this Adjudicating Authority.
17. As per Form H submitted by the Liquidator, no application u/s. 43, 45, 50 and 66 has been preferred/pending with this Adjudicating Authority.<sup>22</sup>
18. In compliance of regulation 45 of the Regulations 2016, the Liquidator has filed the **Final Report**<sup>23</sup> annexing the following documents: -

Sl.No.	Particulars	Annexure No.	Page Nos
1.	Preliminary Report & Asset Memorandum	A	189-202
2.	Audited Balance Sheet for the F.Y. 2018-19 ended on 31/03/2019	B	203-205
3.	Copy of minutes of 5 <sup>th</sup> CoC meeting approving liquidation and liquidation expenses	C	216-224
4.	Copy of minutes of 10 <sup>th</sup> SCC meeting deciding to dissolve the Corporate Debtor with 100% of voting share of SCC member	D	224-228
5.	Bank Statement showing closure of Liquidation Account No. 000605034302 with ICICI Bank, R. N. Mukherjee Road Branch	E	229
6.	Consolidated Receipt and Payment Account from the date of Liquidation and up to	F	230

<sup>21</sup> Annexure “N” at pages 173 to 177 of the application

<sup>22</sup> Para 9 of Form H at page 241 of the application

<sup>23</sup> Annexure “O” at pages 178 to 232 of the application

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	27/05/2023		
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19. In terms of regulation 45 of the Regulations 2016, the Liquidator has also filed Compliance Certificate in **Form H**<sup>24</sup> as well as copy of **Bank Statement**<sup>25</sup> showing “**zero**” balance in the liquidation account.
20. It is submitted by the Ld. Counsel for the Liquidator that the Corporate Debtor has only financial assets, which has been realised and the SCC at its 10<sup>th</sup> meeting unanimously decided for dissolution of the Corporate Debtor.
21. It is also submitted by the Ld. Counsel for the Liquidator that the affairs of the Corporate Debtor were completely liquidated after realising the assets.
22. 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 have been completely wound up and its assets have been completely liquidated. The bank account has also been closed.
23. In view of the facts and circumstances stated above, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.
24. 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.
25. The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.

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<sup>24</sup> Annexure “P” at pages 233 to 241 of the application

<sup>25</sup> Annexure “Q” at pages 242 to 246 of the application

26. **IA(IBC)1351(KB)2023** is allowed with the above directions and both the **IA(IBC)1351(KB)2023** and **CP(IB)/231(KB)2019** are accordingly disposed of.
27. 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.
28. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
29. File be consigned to records.

**(Balraj Joshi)**  
**Member (Technical)**

**(Rohit Kapoor)**  
**Member (Judicial)**

Signed on this, the 23<sup>rd</sup> day of November, 2023.

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