



IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, COURT-II

KOLKATA

IA(IBC)(Dis.) No. 31 /KB/2025

AND

IA(IBC)No.291/KB/2023

IN

C.P.(IB) No. 172/KB/2022

An application under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016 and under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016;

IN THE MATTER OF:

STATE BANK OF INDIA

...Financial Creditor

VERSUS

VISWATMA MERCHANDISE PVT. LTD.

...Corporate Debtor

And

IN THE MATTER OF:

Mr. Arun Kumar Gupta

...Liquidator/Applicant

Coram:

Shri Labh Singh : Member (Judicial)

Ms. Rekha Kantilal Shah : Member (Technical)



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IN
C.P.(IBC) No. 172/KB/2022

Counsels appeared (through hybrid mode):

i. Mr. Arun Kumar Gupta, Liquidator

For Respondent no. 1 in I.A.(IBC)No. 291/KB/2023

- i. Mr. Sourojit Dasgupta, Adv.
- ii. Ms. Ruchika Dhandhanian, Adv.

For Respondent no. 2 I.A. (IBC)No.291/KB/2023

- i. Mr. Saurodip Banerjee, Adv.
- ii. Mr. Pradeep Kumar, Adv.

Date of pronouncement: 12.02.2026

ORDER

Per: Rekha Kantilal Shah, Member (Technical)

1. The Tribunal convened through hybrid mode.
2. The Corporate Debtor, **Viswatma Merchandise Pvt Ltd**, (hereinafter referred to as Corporate Debtor), is a company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 5/53 Jagatipota, Krishan Market Road P.O - Dhalua, Kolkata, West Bengal- 700152.



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3. The Corporate Insolvency Resolution Process (CIRP) under Section 7 of the Insolvency and Bankruptcy Code, 2016 was initiated against the Corporate Debtor vide an order dated **29.12.2022** by the National Company Law Tribunal, Kolkata Bench. Subsequently the Hon'ble Adjudicating Authority passed the order of liquidation of the Corporate Debtor on **27.7.2023**. The applicant Mr. Arun Kumar Gupta, Insolvency Professional was appointed as Liquidator of Viswatma Merchandise Pvt. Ltd.

4.IA(IBC)(Dis.) No. 31 /KB/2025

4.1 This application is filed by the applicant claiming the following reliefs:

- (a) Allow the present application.
- (b) To pass necessary orders u/s 54 of Insolvency & Bankruptcy Code, 2016 read with Regulation 45 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 for dissolution of the Corporate Debtor Viswatma Merchandise Pvt Ltd. and
- (c) Issue such other necessary orders as may be deemed fit in the matter.



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5. Background of the Case

5.1 The Adjudicating Authority passed the order for liquidation of the Corporate Debtor And appointed the applicant as liquidator on **27.07.2023**, which was considered the Liquidation Commencement Date.

5.2 The applicant immediately, thereafter, made a newspaper publication of the Public Announcement in Form B on **29.07.2023** in Financial Express (English Newspaper) and Aajkaal (Bengali Newspaper), and in the said public announcement the applicant also declared **26.08.2023** as the last date for submission of claims by the creditors/ stakeholders.¹

5.3 The Preliminary Report and an Asset Memorandum, was also prepared as per Regulation 34. The aforesaid preliminary report and asset memorandum were filed before the Adjudicating Authority, Kolkata Bench, with this Tribunal on **23.08.2023** by way of an application bearing **IA/IBC/1474/KB/2023**, as required under Regulation 5 and Regulation 13 of liquidation Regulations.

¹Annexure C



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5.4 On the basis of claims received from the stakeholders and after due verification of the same, the applicant prepared the list of stakeholders and filed the same before the Adjudicating Authority on **20.09.2023** by an application bearing **IA/IBC/1604/KB/2023**, which was allowed by this Tribunal via order dated **16.10.2023**. The applicant on **18.09.2023** constituted Stakeholders Consultation Committee (SCC), within sixty days from the liquidation commencement date based on the stakeholders prepared as per Regulation 31A(2). The details of SCC members and their admitted amount of claims is given hereunder:

| Class of stakeholders | Name of Representatives |
|--|---|
| Financial creditor (secured Voting) | State Bank of India - claim admitted Rs. 1,06,17,36,961.6 voting share - 100% |

5.5 The applicant states that there was no cooperation from the directors since the beginning of CIRP. An application under Section 19(2) of IBC, 2016 bearing **IA/291/KB/2023** was preferred to that effect by the applicant, and the same is pending before this Tribunal.



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5.6. The applicant opened a new current bank account named Viswatma Merchandise Private Limited, bearing account number **01900210019795**, with UCO Bank, Kolkata Main-RT Branch, West Bengal, for CIRP/Liquidation purpose as required under Regulation 41(1) of the Liquidation Regulations.

5.7 The applicant stated that, he has filed 9 progress reports for the period from **27.07.2023** to **30.09.2025**, each outlining the material developments and actions undertaken during the course of the liquidation proceedings. The said progress reports were duly taken on record by the Hon'ble Tribunal from time to time.

5.8 The Applicant stated that the first meeting of the stakeholder's consultation committee was duly convened on **02.08.2023**.

5.9 The applicant stated that the 10th meeting of the Stakeholders Consultation Committee was convened on **24.06.2025**. The agenda in this meeting was regarding the SCC approval to authorise the liquidator to submit application for dissolution under Section 54(1) of IBC, 2016 read with Regulation 45(3)(b) of IBBI



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(Liquidation process) Regulations, 2016. The said resolution was not voted upon as it was noted that the SCC is not required to vote upon the filing of the dissolution application under Section 54 of the Code, and that the Liquidator has the requisite authority under law to file the said application before the Hon'ble Adjudicating authority.

“Resolution was not voted upon. It was also discussed and noted that the SCC is not required to vote upon the filing of the dissolution application under Section 54 of the Code, and that the Liquidator has the requisite authority under law to file the said application before the Hon'ble NCLT.”²

5.10. The applicant submitted that, during the CIRP process, the corporate debtor has been subjected to avoidable transactions worth **Rs. 13,77,39,555** which are fraudulent under Section 66 of the Code. Accordingly, an interlocutory application being **IA(IBC)1544/KB/2025** was filed by the applicant under Section 66 of the Code.

²Annexure E



5.11. The applicant submitted that, the 11th meeting of the Stakeholders Consultation Committee was convened on **26.08.2025**. The first matter was regarding the State Bank of India to proceed with an interlocutory application filed by the liquidator under Section 66 of IBC, 2016 after the closure of the liquidation proceedings. The same was approved by 100% majority.

"Resolved that as per Regulation 31A(1)(e) of the Liquidation Process Regulations, the interlocutory application filed by the Liquidator under Section 66 of IBC, 2016 shall be pursued by State Bank of India after closure of the liquidation proceedings and the proceeds, if any, from these proceedings shall be distributed as per Sec. 53 of IBC, 2016. The costs for drafting and filing such application, along with fees of counsel, shall form part of the liquidation costs." ³

5.12. The applicant submitted that, upon the commencement of the Liquidation Process, the Corporate Debtor only had a closed cold storage, including land and a godown, located at Kaliyaganj, West Bengal.

³Annexure F



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5.13. The applicant submitted that, the average valuation of assets, as determined by the liquidator during the CIRP, amounting to **Rs. 1,94,27,727** was considered. The Liquidator conducted 5 e-auctions to sell the assets. The details of the 5 e-auctions conducted are as below:

| Auction No. | Date of publication | Date of auction | Reserve price (Rs.)-Asset Class-Land & Building only |
|-------------|---------------------|-----------------|--|
| 1 | 22.2.2024 | 20.3.2024 | 1,94,27,727 |
| 2 | 13.5.2024 | 6.6.2024 | 1,65,13,568 |
| 3 | 24.9.2024 | 25.10.2025 | 1,45,70,795 |
| 4 | 15.11.2024 | 9.12.2024 | 1,45,70,795 |
| 5 | 27.12.2024 | 18.1.2025 | 1,45,70,795 |

5.14. The applicant also submitted that, In the 5th e-auction, held on **18.01.2025**, M/s Maa Boira Agro LLP submitted a successful bid for which the total aggregate sale consideration was **INR 1,45,70,795**. The successful bidder deposited the EMD of **INR 14,57,080** on 16.01.2025. Thereafter, **INR 10,000** was credited on 10.02.2025, and the remaining amount of **INR 1,31,03,715**, which forms part of the sale consideration, was credited to the liquidation bank account of the Corporate Debtor on 11.02.2025. As a result of this a sale certificate was issued on 14.02.2025, and the property was handed over to the purchaser on 28.02.2025.



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5.15. The applicant further submitted that, the realization from the sale, amounting to Rs. 1,45,70,795, was distributed to the sole Secured Financial Creditor on 27.02.2025. The Financial Creditor has paid the CIRP and liquidation costs on actuals.

5.16. The applicant also submitted that, as per the mandatory requirement under Regulation 45(3) of the Liquidation Regulations, he has prepared a compliance certificate in the prescribed Form H.⁴

5.17. The Applicant further submitted, that the Final Report, as mandated under Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Sets out all material facts and information pertaining to the liquidation process of the Corporate Debtor and provides a comprehensive account of the manner in which the process has been conducted, including how the corporate debtor's assets have been liquidated.⁵

6. Findings and Analysis

6.1 We have gone through the case file carefully and perused the pleadings of the parties and documents placed on record by the

⁴Annexure O

⁵Annexure N



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parties and heard the arguments put forth by learned Counsels for the parties; and after hearing the learned counsels for the parties, we shall now proceed to consider the present petition on its merits, specifically within the ambit of points involved in the instant application.

6.2. It is evident from the 'Form H' those assets as per Asset Memorandum and Final Sale Report are as under:

| SI. NO | Classification of assets | Mode of sale | Value of the asset | Sale proceeds realized | Date of transfer into the liquidation account |
|--------|------------------------------|--------------|--------------------|------------------------|--|
| 1. | Valuation of land & building | e-auction | 1,94,27,727 | 1,45,70,795 | INR 14,57,080 was paid on 16.01.2025 to the corporate debtor account. Thereafter, INR 10,000 was paid on 10.02.2025 in lieu of the remaining balance consideration amount and INR 1,31,03,715 was credited on 11.02.2025 to the corporate debtor liquidation account as a final balance payment. |
| | Total for land & building | | 1,94,27,727 | 1,45,70,795 | |



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- (a) *Liquidation value of the liquidation estate: As per The Valuation done during the CIRP, Avg Liquidation Value of the Assets was Rs. 1,94,27,727, comprising only of Land and building. However, as on the Liquidation Commencement date value of the same was reduced to Rs. 1,45,70,795.*
- (b) *Amount realized during the liquidation process: Rs. 1,45,70,795.*

| SI.No. | Realisations | Amount (Rs.) |
|------------------|---|--------------|
| 1. | Opening balance as on liquidation commencement date (A) | 0 |
| Realisations (B) | | |
| 2. | Auctions of assets | 1,45,70,795 |
| 3. | Private sales of assets | 0 |
| 4. | Assignment of not readily realizable assets | 0 |
| 5. | Distribution of unsold asset | 0 |
| 6. | Others (specify)- Forfeiture of EMD | 0 |
| Total (A+B) | | 1,45,70,795 |



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6.3. At this juncture, we would go through the various provisions of the Insolvency & Bankruptcy Code dealing with the dissolution of the Corporate Debtor which are as follows: -

6.4. Section 54 of the Insolvency & Bankruptcy Code Dissolution of Corporate Debtor -

“(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 debtor is registered.”



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6.5. Rule 45 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016:

Final report prior to dissolution: -

(1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor's assets have been liquidated.

(2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.

(3) The liquidator shall submit an application along with the final report and the compliance certificate in form H to the Adjudicating Authority for -

(a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or

(b) the dissolution of the corporate debtor, in cases not covered under clause(a)



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- 6.6. We would note that the Applicant in compliance to the Code and its Regulations has discharged his duties. The Bank Account no. **01900210019795** with UCO Bank, Kolkata Main- RT Branch, West Bengal in the name of the Corporate Debtor, for the receipt of all moneys due to the Corporate Debtor, which was activated for undertaking financial transactions. The said account was initiated for closure by the applicant through email dated 20.11.2025.
- 6.7. The liquidation Process is fully complete. Thus, the Liquidator in compliance has filed the present application under Section 54 read with Regulation 45 of IBBI (Liquidation Process) Regulation, 2016, seeking an Order of dissolution of the corporate debtor.
- 6.8. In compliance with Regulation 15 of the Liquidation Process Regulations, the Liquidator has filed 9 Progress Reports from time to time before this Adjudicating Authority and also the final report disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor.



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As per mandatory requirement under Regulation 45(3) of the Liquidation Process Regulations, the Liquidator has prepared a compliance certificate under prescribed 'Form H'.

6.9. A conjoint reading of these the statutory provisions as noted supra, mandates upon completion of the liquidation of the assets of the corporate debtor, filing of subsequent application to the Adjudicating Authority to seek dissolution under Section 54 of the IBC, 2016 where the assets of the Corporate Debtor either have been completely liquidated after distribution among the Stakeholders or for early dissolution under Regulation 14 of the Liquidation Process Regulations, or where the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process, the liquidator may apply to the Adjudicating Authority for early dissolution.

6.10. Applicant submitted that, it was agreed by the financial creditor that proposed Section 66 application will be pursued by the Financial Creditor independently and the Recovery thereof, if



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any, will be distributed in accordance with Section 53 of the Code as per 11th SCC meeting:

Item no. 8 of 11th SCC meeting is as follows:

“Accordingly, the SCC discussed and it was agreed that the Liquidator shall file an appropriate application before the Hon'ble NCLT under Section 66 based on the findings of the final audit report for recovery of related party transactions worth Rs.13.77 crores from the Directors of the corporate debtor. It was clarified and agreed that this proposed Section 66 application will be pursued by the Financial Creditor, i.e., State Bank of India, independently, and the same will not affect or delay the filing/ disposal of the dissolution application. Recovery thereof, if any will be distributed in accordance with Section 53 of the Code. It was also agreed by SBI that the cost of this transaction audit/ subsequent filing of the application will form part of the liquidation cost. The same was also a voting agenda for the meeting as required under



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Regulation 31A.”⁶

**6.11. INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS)
REGULATIONS, 2016**

[44A. The liquidator shall, on the advice of the consultation committee, provide in the application along with the final report filed under Regulation 45 for the manner in which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the dissolution or closure of liquidation process and the manner in which the proceeds, if any, from such proceedings shall be distributed.]

6.12. The Liquidator issued an email dated **28 November 2025** to UCO Bank, Kolkata main Branch, 700 001, maintaining Current Account No. **01900210019795**, for closure of the said bank account; however, no bank account closure confirmation certificate has been enclosed by the Applicant, and accordingly, the Applicant is hereby

⁶Annexure F



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directed to take necessary steps to close the said bank account and submit the bank account closure certificate. With regard to the surrender of the Tax Account Number (TAN), the Liquidator has submitted that the same could not be surrendered as the TDS return for the third quarter of the Financial Year 2025-2026 could not be filed due to the launch of a new software system on **1st January 2026**, and since the due date for filing the said return is **31st January 2026**; therefore, the Liquidator is hereby directed to complete the filing of the TDS return for the third quarter of Financial Year 2025-2026 within the prescribed due date in accordance with law and immediately thereafter surrender the TAN. The Liquidator has further stated that the Corporate Debtor does not possess any Goods and Services Tax registration. With regard to the surrender of the Permanent Account Number (PAN), it is stated that the same could not be surrendered as the TDS return for the third quarter of Financial Year 2025-2026 is pending; accordingly, the Liquidator is hereby directed to surrender the PAN along with the TAN immediately upon completion of compliance relating to the filing of the TDS return for the third quarter of Financial Year 2025-2026.



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6.13. Taking into consideration the above and the decision taken to continue proceedings under Section 66 of the Insolvency and Bankruptcy Code, 2016, as discussed in the 11th SCC meeting. The Tribunal in exercise of its inherent powers under Rule 11 of the NCLT Rules, 2016, has considered the circumstances necessitating the end of the liquidation process of the Corporate Debtor. Therefore, the Financial Creditor State Bank of India is hereby directed to proceed forthwith the Section 66 Application being as **IA (I.B.C)/1544(KB)2025**.

6.14. In view of the above facts and circumstances, this Adjudicating Authority in exercise of the powers conferred under sub-section (2) of Section 54 of the Code hereby Orders dissolution of the Corporate Debtor, i.e. Viswatma Merchandise Pvt Ltd, from the date of this Order thus stands **dissolved** and consequently, the Liquidator stands relieved from his responsibilities, subject to procedural compliances.



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- 6.15. The Liquidator and the Registry are hereby directed to serve a copy of this Order upon the Registrar of Companies, West Bengal, within seven days of receipt of this Order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this Order.
- 6.16. Further, the Liquidator is directed to serve a copy of this Order upon the **Insolvency and Bankruptcy Board of India** within fourteen days of receipt of this order. The IBBI shall take further necessary action upon receipt of a copy of this Order.
- 6.17. **I.A.(IBC)(DIS.)/31(KB)2025** is allowed with the above directions and is hereby **disposed of** accordingly.
- 6.18. In light of the above the application being **I.A.(IBC) NO. 291/KB/2023**, filed under section 19(2) of Insolvency and Bankruptcy Code, 2016, alleging non-cooperation on part of the directors, has become infructuous and accordingly is hereby **disposed of**.



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6.19 Accordingly, the C.P. (IBC) No. 172/KB/2022 is hereby disposed of.

6.20. 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.

6.21. Certified Copy of this Order may be issued, if applied for with the Registry, upon compliance of all requisite formalities.

6.22. File be consigned to records.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)

Order signed on this 12th day of February 2026.

SR(LRA)