



IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU

*(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)*

I.A. No.310 of 2023 in
C.P. (IB)No.05/BB/2021
U/s 60(5)(c) of the IBC, 2016
R/w Rule 11 of the NCLT Rules, 2016

In the matter of:

Shri Joby Chacko

Liquidator of M/s. MTM Trading Pvt. Ltd.
Pride Sunrise, Second Floor,
Flat No.104, Next to Pride
Vatika Layout, Jigani Hobli,
Bangalore - 560 083.

- Applicant

Order delivered on: 20th July, 2023

CORAM: 1. Hon'ble Justice (Retd.) T. Krishnavalli, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the Applicant : Shri Saji P. John

ORDER

Per: T. Krishnavalli, Member (Judicial)

1. The instant Application has been filed by Shri Joby Chacko ('Applicant') under Section 60(5) of the IBC, 2016 R/w Rule 11 of the NCLT Rules, 2016 *inter alia* seeking to permit the Liquidator to sell the assets of the Corporate Debtor i.e. investment in 1,20,000 equity shares of Rs.10 each in Khandepur Investments Pvt. Ltd. to Mr. Kirti Nerlekar for Rs.1,25,00,000/-.
2. Brief facts of the case, as mentioned in the Application and synopsis which are relevant to the issue in question, are as follows:
 - i. It is stated that this Adjudicating Authority vide its order 17.08.2021 ordered liquidation against the Corporate Debtor and appointed Mr. Joby Chacko as Liquidator to conduct the liquidation process of the Corporate



Debtor in accordance with the IBC and Regulations made thereunder. The Liquidation period has been extended twice on application of the Liquidator by this Adjudicating Authority and the last date for completion of liquidation after extension of the liquidation period is 16th August 2023. The Corporate Debtor was not carrying on any business as on CIRP Commencement date and liquidation commencement date and there were no employees. The only asset available with the Corporate Debtor is an investment in the equity shares in another private limited company. Corporate Debtor is holding 1,20,000 equity shares of the face value of Rs.10 each in Khandepar Investments Pvt. Ltd. which constitute 8.75% of the paid-up share capital of the investee Company.

- ii. Other than the claim received from Mitra Trading and Exports Pvt. Ltd., the Sole Financial Creditor, no other claims are received by the Liquidator till date. Details of the said Claim is as follows:

Sl. No.	Name of the Claimant	Nature of claim	Amount claimed (in INR)	Amount admitted by Liquidator (In INR)
1.	Mitra Trading and Exports Pvt. Ltd.	Unsecured	1,13,11,77,641	1,13,11,77,641
Total				1,31,11,77,641

- iii. It is also stated that the Applicant made 13 (thirteen) attempts to sell the asset of the Corporate Debtor by way of e-auction during the liquidation period, but all e-auctions failed as no bid received any interested buyers. The sale notice for 12th e-auction has published in the New Indian Express (in English) and Samyuktha Karnataka (in Kannada) Belagavi edition on 28.03.2023 as date of e-auction as on 22.04.2023. In response to the said advertisement, one proposal received from one Mr. Kirti Nerlekar vide e-mail dated 10.04.2023 and the offer amount was Rs.1,25,00,000/- which was less than the reserve price of Rs.3,54,00,690/-. As the offer amount was less than the reserve price, it was informed to him that the same cannot be considered.



- iv. It is further stated that the Liquidator called a meeting of the Stakeholders Consultation Committee (SCC) on 22.04.2023 to discuss the receipt of an offer from Mr. Kriti Nerlekar to purchase the asset for Rs.1,25,00,000/- who had earlier also shown interest in the said asset of the Company in the year 2022 in response to the e-auction notice dated 07.03.2022. The offer price at that time was Rs.1,00,00,000/-. The SCC discussed the proposal in detail, and it is of the opinion that to seek the permission of this Adjudicating Authority to sell the asset to Mr. Kirti Nerlekar at the price offered by him. The available asset with the Corporate Debtor was put for auction twelve times but no prospective bid has been received, except the offer which was received during the second e-auction and the present offer. The Financial Creditor is not interested in taking this asset. Accordingly, the Liquidator may be permitted to accept the offer received from Mr. Kirti Nerlekar. Hence, this Application.
3. Pursuant to the order dated 26.05.2023, the Applicant has filed synopsis vide diary no.3058 dated 09.06.2023 wherein it is inter alia prayed that the Tribunal may consider allowing sale of Assets at less than the reserve price through Private Sale; alternatively, the Liquidator may be permitted to reduce the reserve price by more than 10% for the future e-auctions in the interest of justice.
4. Heard the learned Counsel for the Applicant. We have carefully perused the pleadings of the parties and extant provisions of the Code, and the Regulations made thereunder.
5. On perusal of the records, it is observed that the only Asset available with the Corporate Debtor is that, it is holding 1,20,000 equity shares of the Face Value of Rs.10/- each in M/s. Khandepar Investments Pvt. Ltd., which constitute 8.75% of the Paid-up Share Capital of the Investee Company. The Applicant-Liquidator has conducted e-auction for 13 times for sale of the said asset, for which no buyer has shown interest except from one bidder i.e., Mr. Kirti Nerlekar, who offered a price of Rs.1,25,00,000/- in response to 12th e-auction notice published in newspapers on 28.03.2023. Since the offered price is less than the reserved price of Rs.3,54,00,690/-, it was informed to Mr. Kirti Nerlekar



that the same cannot be considered. Subsequently, it is stated that the Stakeholders Consultation Committee discussed the said offer in its meeting held on 22.04.2023, and upon deliberation, the Committee opined to seek permission of this Adjudicating Authority to sell the said Asset to Mr. Kirti Nerlekar at the price offered by him.

6. Considering the aforesaid facts and circumstances of the case, we are of the considering opinion that the Liquidator be permitted to sell the aforesaid asset of the Corporate Debtor by reducing the reserve prices with an additional 25% (in addition to the existing reduction) for the ensuing e-auction in respect of the said asset.
7. With the aforesaid observations, **I.A. No.310 of 2023 stands disposed of.**

Sd/-
(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

Sd/-
(T. KRISHNAVALLI)
MEMBER (JUDICIAL)