

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SPECIAL BENCH - II, CHENNAI

I.A (IBC) / 576 (CHE) / 2022

In

IBA / 1170 / 2019

(Filed under Section 54(1) of the Insolvency and Bankruptcy Code, 2016  
and Regulation 45(3) of the IBBI (Liquidation Process Regulations), 2016)

In the matter of **M/s. Brilliant IT Enabling Private Limited (IN LIQUIDATION)**

**N.KUMAR,**

Liquidator,

M/s. Brilliant IT Enabling Services Private Limited (In Liquidation),

(Regn. No. IBBI/IPA-001/IP-P00724/2017-18/11254)

Old No.8, New No.3, Third Street, Race View Colony, Guindy,

Chennai, Tamil Nadu - 600 032

... Applicant / Petitioner

Order Pronounced on 22<sup>nd</sup> December 2023

CORAM

**SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**

**SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

(Through Virtual Hearing)

Present: -

For Applicant : R. Srinithi, Advocate

ORDER

The present Application has been filed under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') and Regulation 45(3) of IBBI (Liquidation Process Regulations), 2016 (hereinafter referred to as 'Regulations') r/w Rule 11 of NCLT Rules, 2016 (hereinafter referred to as 'Rules') by the Liquidator seeking an order of dissolution of **M/s. Brilliant IT Enabling Private Limited**, having CIN: U72900TN2001PTC047686 and Registered office at Old No. 65/1, New No. 149, LUZ Church Road, Mylapore, Chennai, Tamil Nadu, India - 600 004 (hereinafter referred to as 'Corporate Debtor').

2. It is stated that CIRP in respect of the Corporate Debtor was initiated on 04.03.2021 in IBA/1170/2019. Liquidation of the Corporate Debtor was ordered by

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this Tribunal vide order dated 04.10.2021 in IA/657/CHE/2019 in IBA/1170/2019 and the Applicant herein was appointed as the Liquidator.

3. The PF department submitted their claim online via e-mail on 06.10.2021 for a sum of Rs. 47,40,674/- (Rupees Forty Seven Lakhs Forty thousand Six hundred and seventy four only) which was rejected by the applicant. Subsequently PF department made revised claim on 17.12.2021 for a sum of Rs. 14,75,458/- (Rupees Fourteen Lakhs seventy five thousand four hundred and fifty eight only) which was also rejected by the applicant. Against the rejection of the applicant, PF department preferred appeals before this bench where the applicant was directed to consider the PF claims via order dated 31.01.2022 in IA/50/CHE/2022 of IA/657/2021 in IBA/1170/2019. In connection to this, the applicant by an email dated 28.02.2022 to PF department sought information regarding the CD's Bank statement which shows Debit of Rs. 4,28,017/- (Rupees Four Lakhs twenty eight thousand and seventeen only) towards the Regional Provident Fund charge as per the Notice of EPFO dated 10.05.2018 having Reference No. 22051813 on 02.06.2018. The applicant then rejected the PF department claim. The Statement of the CD's bank account showing the above transaction is provided as below:

**Account Statement**  
 Branch Name: CHENNAI MAIN BRANCH  
 MICR CODE: 60009002 IFSC CODE: HSBCC000002  
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**Statement Details**  
 Statement Unit: 324772018  
 Customer Number: 34748987  
 Account Number: 041402637501  
 Currency: INR  
 Product Type: CURRENT ACCOUNT-REG  
 Dispatch Code: U-UNDETERMINED

BRILLIANT IT ENABLING SERVICES LTD  
 NEW NO. 148 OLD NO 65/1  
 LUX CHURCH ROAD  
 MYLAPORE  
 CHENNAI 600004

Please note that as per RBI Circular w.e.f. 1 Apr 2012, validity period of Cheques, Demand Drafts, Pay Orders, Remittances  
 Cheques shall be reduced from 3 months to 3 months.  
 Please note that we have revised our savings interest rate for Indian Rupee savings deposits for Resident and Non-Resident  
 customers from 4% to 3.5% per annum from 18 Aug 2017.

Date	Detail	Withdrawals	Deposits	Balance (DEBIT)
30-03-2018	BALANCE BROUGHT FORWARD			428,217.22
02-11-2018	RCD 428018 AS PER NOTICE OF EPFO DATED 10MAY18 REF 22051813 THE REGIONAL PROVIDENT FUND CHARGE WAIVED	428,017.00		0.00
Withdrawals		428,017.00		428,017.00
Deposits				0.00
		As at	Balance Carried Forward	

3. Pursuant to that, the Liquidator filed a Preliminary report on 16.12.2021 detailing the Asset Memorandum of the Corporate Debtor as below:

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL CHENNAI BENCH, COURT 2  
IA / 657/CHE/ 2021 dated 04.10.2021 order received on 5.10.2021  
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PRELIMINARY REPORT

Annexure - 2

Estimate of Assets and Liabilities of Corporate Debtor

Assets			
Sl No.	Particulars	Note Reference	Amount Rs
1	Cash and Bank Balance	Note - 1	-
2	Investment in Subsidiaries	Note - 2	-
3	Immovable Properties	Note - 3	-
4	Sundry Debtors	Note - 4	-
5	Other Receivables	Note - 5	-
	<b>Total</b>		-

Liabilities

Sl No.	Particulars	Note Reference	Amount Rs
1	Claims submitted	Note - 6	47,40,674.00
2	Other Expenses (incurred)	Note - 7	14,112.00
3	Estimate of Monthly Expenses expected to be incurred	Note - 8	50,000.00
4			
5			
	<b>TOTAL</b>		<b>48,04,786.00</b>

Note  
Claim was given by PF department, however CD clarified to the PF department that there was no dues and PF payments was discharged  
PF department requested for Audited Financials of 2014-15 which was shared to them  
CD is in the process of giving Revised claim based on above  
No other Creditors have given claim  
Company does not have any assets in Liquidation expenses even to meet the liquidators fees

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL CHENNAI BENCH, COURT 2  
IA / 657/CHE/ 2021 dated 04.10.2021 order received on 5.10.2021  
IBA NO 1170 OF 2019  
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Asset Memorandum as on - 16.12.2021

Sl No	Particulars	Description	Type of Asset
1	Company Does not have any assets	NIL	NIL
2			
3			
4			
5			
6			
7			
8			
9			
	<b>TOTAL</b>		

Note: The above Asset Memorandum is prepared based on the best information made available to us.

It is stated that the Corporate Debtor has no realizable or salable assets, and continuing the process will only increase the cost of liquidation and hence the applicant has opted for the dissolution of the Corporate Debtor.

4. The Applicant/Liquidator in his Closure report (the Progress report) dated 05.04.2021, has stated the details of CIRP expenses and Liquidation cost of Corporate Debtor in the table as below,

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Sl. No.	Stakeholders under section 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a) CIRP Costs	68,136	68,136			Said amount of Rs 18136 was incurred for public notice and Rs 50000/- was paid as Professional fees during CIRP
2	(a): Liquidation Costs	14,142	14,142			Said amount was incurred by Liquidator for Public announcement of Liquidation and not yet refunded to him as there is no liquidation estate
3	(b)(i) Liquidator fee and expenses	40,000				
Total						

5. Heard the submissions made by the Learned Counsel for the Applicant and perused the documents on record. It can be seen from the Liquidator's closure cum progress report and Form H (Compliance Certificate) that there is no Liquidation estates with the Corporate Debtor as follows,

**PROGRESS REPORT**  
**FOR THE QUARTER ENDING 31.3.2022**  
**DATE OF COMMENCEMENT OF LIQUIDATION PROCESS**  
**Order Delivered on 4<sup>th</sup> October 2021 and received on**  
**5.10.2021**

S.NO	PARTICULARS	
1	Appointment of professionals	Nil
2	Statement on progress in liquidation	
	i. Settlement of list of stakeholders	Claim was given only by PF department, Chennai however on verification of records amount mentioned as claim was already paid by Corporate Debtor, which was informed to PF department vide email dated 31.3.2022
	ii. Detail of any property that remain to be sold and realised	There is no property available and hence no liquidation estate
	iii. Distribution made to the stakeholders and	Nil/ NA
	iv. Distribution of unsold property made to the stakeholders;	Nil/ NA

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	I. Fee due to / received by the liquidator and description of the activities carried out by the liquidator	Monthly Fees is Rs 40,000/- to be received
	II. Remuneration or fee paid to professionals	Nil

	appointed by the liquidator III. Other expenses incurred by the liquidator	Expenses incurred on Public Notice for Rs14,122/-
4	Developments in any material litigation, by or against the corporate debtor	Nil
5	Filing of and development in applications for avoidance of transactions in accordance with Chapter III of part II of the code	Bank account of the CD was examined and no fraudulent transactions/ avoidance found CD does not carried out any activity since last 2 years that is from 2018
6	Changes if any, in estimated liquidation costs	Nil
7	Progress in sale of Assets	No Assets available

Statement indicating any material changes in expected realization of any property proposed to be sold, along with the basis for such changes. – Not applicable

6. In the Audited Receipts & Payments filed by the Liquidator dated 05.04.2022, the details of the Receipts and Payments starting from Liquidation commencement date (04.10.2021) till 31.03.2022 have been tabulated and same are below,

**Liquidation account of Brilliant IT Enabling Services Private Limited**

**IA /657/CHE/ 2021 in IBA/ 1170/ 2019**

**Receipts and payments account for the Quarter ended on 31.3.2022**

Receipts	For the quarter ended 31.3.2022 (Rs.)	Cumulative from 04.10.2021 (Rs.)	Payments	For the quarter ended 31.3.2022 (Rs.)	Cumulative from 04.10.2021 (Rs.)
Nil	Nil	Nil	Nil	Nil	Nil

Date 05.04.2022

Chennai

IP Regn. No:  
IBBI/PA-001/IP-P00724/2017-18/11254

In the Compliance Certificate filed in Form-H by the Applicant, there is no record about the PUFEE transactions in the Corporate Debtor.

7. The Application filed by PF department against rejection of claim in IA(IBC)/775(CHE)2022 in IBA/1170/2019 has also been dismissed by this tribunal, vide order dated 22.12.2023. Therefore no pending litigation exists in relation to the Corporate Debtor, before this tribunal.

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7. From the submissions of the Counsel and on perusal of the records we find that there are no realizable assets in the Corporate Debtor.

8. Section 54 of the IBC, 2016 provides as follows: -

*"Section 54*

*(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.*

*(2) 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."*

9. Regulation 14 of the IBBI (Liquidation Process) Regulation 2016 reads as follows,

*"Regulation 14: Early dissolution.*

*Any time after the preparation of the Preliminary Report, if it appears to the liquidator that-*

*(a) the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process; and*

*(b) the affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution."*

Regulation 45 of the IBBI (Liquidation Process) Regulation 2016 reads as follows,

*"Regulation 45: 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) for the dissolution of the corporate debtor, in cases not covered under clause (a).

10. Going through the above provisions, the Circumstances prevailing and records placed before, this Tribunal, we find that it would be just and proper to order for the dissolution of the Corporate Debtor as per Section 54 of the Code.

11. Accordingly, we order the dissolution of the Corporate Debtor viz., **M/s. Brilliant IT Enabling Private Limited**. The Liquidator is directed to forward a copy of this Order to the RoC concerned and also to the IBBI for its records and for updating the status of the Corporate Debtor on the 'MCA Master data' within a period of 7 days from the date of this Order.

12. Accordingly, IA (IBC) / 576 (CHE) / 2022 in IBA / 1170 / 2019 stands allowed and disposed of. |

— Sd —

**RAVICHANDRAN RAMASAMY**  
MEMBER (TECHNICAL)

— Sd —

**SANJIV JAIN**  
MEMBER (JUDICIAL)

*Order Pronounced under Rule 151 of NCLT Rules 2016, by Hon'ble Technical Member, Ravichandran Ramasamy on behalf of the Special Bench Comprising of Sanjiv Jain, Member (Judicial) and Ravichandran Ramasamy, Member (Technical).*

Court Officer

