

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**IA- 1635(PB)/2023
IN
CP-(IB)-1456(PB) of 2019**

Under Section 54(1) of Insolvency and Bankruptcy Code, 2016 r/w Regulation 45(3)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

In the matter of:

M/s Syndicate Bank

.... Petitioner

Versus

M/s Incom Wires & Cables Ltd.

.... Corporate Debtor

And in the matter of:

Rakesh Kumar Jain

(Liquidator of Incom Wires & Cables Ltd.)

.... Applicant

Order Pronounced on: 15.06.2023

CORAM:

JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT

SHRI AVINASH K. SRIVASTAVA, HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant / : Mr. Mohit Nandwan, Adv. for
Liquidator liquidator



ORDER

1 This is an application filed under section 54(2) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with regulation 45(3) of the Insolvency and Bankruptcy Board of India [Liquidation Process] Regulations, 2016 (“Liquidation Process Regulations”) by the Liquidator of **M/s Incom Wires and Cables Ltd. (CIN: U74899DL1992PLC050243)** (“Corporate Debtor”) praying for dissolution of the Corporate Debtor and seeking following reliefs from this Tribunal:

- A) *To take on record the Final Report filed by the Liquidator under Regulation 45 of Liquidation Regulations, along with this application;*
- B) *To order for dissolution of the Corporate Debtor in terms of Section 54(2) of the Code, as the assets of the Corporate Debtor are Liquidated;*
- C) *To pass any order(s) which the Hon’ble Tribunal may deem fit and proper in the interest of justice and equity;*

2 This Adjudicating Authority *vide* order dated 03.01.2020, admitted the Corporate Debtor under Corporate Insolvency Resolution Process (“CIRP”). As no resolution could be arrived at, the Applicant filed an application for approval of Liquidation of the Corporate Debtor and the same was allowed by this Adjudicating Authority *vide* order dated 19.01.2021.

3 Public announcement of commencement of liquidation was made in Form ‘B’ in “Financial Express” (English) and “Jansatta” (Hindi) (Delhi /NCR edition) on 24.01.2021 inviting proof of claims from the stakeholders of the Corporate Debtor in the specified forms and Form ‘B’ was also uploaded on the IBBI website.



- 4 The Liquidator also intimated the Registrar of Companies, Delhi about the initiation of Liquidation proceedings of the Corporate Debtor by filing Form INC-28 for the stated purpose on 05.02.2021 in order to change the status of the Corporate Debtor from “Active” to “Under Liquidation” on the portal of MCA.
- 5 The details of original claim received & admitted, and modified claim received & admitted by the Liquidator is as follows:

Sr. No.	Nature of Claims	Original Claim admitted (in Rs.)	Modified Claim admitted (in Rs.)
1.	Financial Creditors (Secured)	22,71,59,015.64	15,95,59,015.64
2.	Financial Creditors (Unsecured)	-	-
3.	Operational Creditors (Workmen & Employees)	-	-
4.	Operational Creditors (Government Dues)	-	-
5.	Operational Creditors (Others)	-	-
	Grand Total	22,71,59,015.64	15,95,59,015.64

(After receiving revised claim from Financial Creditor (Secured)- Canara Bank, the Applicant reconstituted the Stakeholders Consultation Committee and in compliance with Regulation 31(2) filed the revised list of SCC with the Adjudicating Authority which was taken on record vide order dated 01.02.2023.)

- 6 A list of stakeholders was prepared and submitted before the Adjudicating Authority on 18.04.2021 and was taken on record by the Adjudicating Authority vide order dated 05.05.2021.



7 The Liquidator convened various Stakeholder Consultation Committee (SCC) Meetings and filed quarterly reports with this Adjudicating Authority. The details of the same is as tabulated below:

7.1 SCC Meetings conducted by the Liquidator is as follows:

Meeting Number	Date
SCC Meeting 1	06.05.2021
SCC Meeting 2	23.06.2021
SCC Meeting 3	21.09.2021
SCC Meeting 4	29.12.2021
SCC Meeting 5	17.03.2022
SCC Meeting 6	16.06.2022
SCC Meeting 7	27.07.2022
SCC Meeting 8	04.08.2022
SCC Meeting 9	20.08.2022
SCC Meeting 10	22.11.2022
SCC Meeting 11	14.02.2023

7.2 Quarterly / Progress Reports filed by the Liquidator is as follows:

Sr. No.	Quarter	Taken on Record (Date)
1	For Quarter ended on 31.03.2021	28.04.2021
2	For Quarter ended on 30.06.2021	23.08.2021
3	For Quarter ended on 30.09.2021	29.10.2021
4	For Quarter ended on 31.12.2021	21.01.2022
5	For Quarter ended on 31.03.2022	26.04.2022
6	For Quarter ended on 30.06.2022	13.07.2022
7	For Quarter ended on 30.09.2022	14.10.2022
8	For Quarter ended on 31.12.2022	18.01.2023

7.3 The Liquidator also filed Preliminary Report as per regulation 13



of the Liquidation Process Regulations as well as Asset Memorandum on 20.04.2021 as per regulation 34(4) of the Liquidation Process Regulations, which was taken on record by the Adjudicating Authority vide order dated 28.04.2021.

8 The Liquidator had opened a new bank account in the name of the Corporate Debtor i.e., Incom Wires & Cables in Liquidation [Account number: - 10068463875] as per regulation 41 of the Liquidation Process Regulations, with IDFC First Bank, Karol Bagh Branch.

9 During the Liquidation process, the Liquidator also sought extension and exclusion of time in the following manner:

9.1 Extension of Liquidation Period by 270 days, & exclusion of 49 days starting 19.04.2021 to 07.06.2021, from computation of period for liquidation process, due to lockdown in Delhi, as per regulation 47A of the Liquidation Process Regulations, 2016. It was allowed by this Adjudicating Authority vide order dated 21.01.2022. A copy of the order dated 21.01.2022 is annexed to the application and marked as Annexure-11.

9.2 Further, extension of Liquidation time by another 180 days was sought by the Liquidator and the same was allowed by this Adjudicating Authority vide order dated 05.12.2022. A copy of order dated 05.12.2022 is annexed to the application and marked as Annexure-21.

10 As per the valuation report, the Corporate Debtor was valued at fair value being Rs. 3,45,17,875/- (Rupees Three Crore Forty-Five Lakhs Seventeen Thousand Eight Hundred Seventy Five only) and liquidation value being Rs. 2,50,01,284/- (Rupees Two Crore Fifty Lakhs One Thousand Two Hundred Eighty-Four only).

11 In an attempt to sell the Corporate Debtor / assets of the Corporate Debtor, the Liquidator published various e-auction notices. Details of all e-auction notices were published in the daily newspapers namely



the Jansatta and the Financial Express along with filing of relevant details to the IBBI. The details of e-auction notices are as tabulated under:

Sr. No.	Date of publication	Assets of the Corporate Debtor	Reserve Price
1	01.06.2021	Sale of Corporate Debtor as a going concern	2,54,00,000
2	30.06.2021	Lot 1- Building only, Constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, UP and Financial Assets not readily realizable. Lot 2- Plant & Machinery	1,76,78,000 77,22,000
3	27.08.2021	Building only, Constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, UP and Financial Assets not readily realizable.	1,60,00,000
4	25.10.2021	Building only, Constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, UP and Financial Assets not readily realizable.	1,60,00,000
5	09.12.2021	Building only, Constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, UP and Financial Assets not readily realizable.	1,60,00,000



6	15.02.2022	Building only, Constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, UP and Financial Assets not readily realizable.	1,44,00,000
7	28.04.2022	Building only, Constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, UP and Financial Assets not readily realizable.	1,36,80,000
8	08.07.2022	Building only, Constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, UP and Financial Assets not readily realizable.	1,29,96,000

12 During the third meeting of SCC, the Applicant apprised the SCC that pursuant to the publication dated 30.06.2021 (2nd e-auction), a total of seven (7) EoIs were received for the Plant & Machinery of Corporate Debtor. Further, against the reserve price of Rs. 77,22,000/-, the highest and successful bid of Rs. 1,49,56,500/- was accepted and the EMD of unsuccessful bidders were returned. The physical possession of the Plant & Machinery was handed over to the highest bidder.

13 The details of buyer(s) to whom the assets have been sold in e-auction are as under:

Nature of assets sold	Name of the Buyer	Address of the buyer	Date of confirmation of sale	Date of sale letter
Plant & Machinery and Office equipment	M/s. Papteq	Udyog Kunj, D-2, NH 2, Industrial Area Ghaziabad UP - 201001	17.07.2021	16.09.2021



- 14 The Applicant submits that no bids were received to the other e-auction notices except for 2nd e-auction notice *supra*.
- 15 During the 7th SCC Meeting, the sole stakeholder (Canara Bank) informed the Applicant that it has accepted an OTS from the promoters of the Corporate Debtor. It was also discussed that if remaining assets remain unsold then the same may be assigned/distributed to the sole stakeholder. A copy of minutes of 7th meeting of SCC dated 27.07.2022 is annexed with the application and marked as Annexure-17.
- 16 In the 8th meeting of SCC, it was resolved that upon completion of liquidation proceedings, the Corporate Debtor should be dissolved, and an application be filed before the Adjudicating Authority. A copy of minutes of 8th meeting of SCC dated 04.08.2022 is annexed to the application and marked as Annexure-18.
- 17 Accordingly, the Applicant filed an application IA No. 6185/2022 before this Adjudicating Authority to approve the assignment and distribution of unsold assets under Regulation 37A and Regulation 38 of the Liquidation Regulations. Upon approval, vide order dated 01.02.2023, the Applicant assigned the rights and recoveries (currently valued at zero), if any, vide application IA No. 4722/2020 filed under Section 66 of the Code to Canara Bank and also distributed/transferred asset being 'Building only, constructed on Plot AS-4 to AS-6 at Sikandarabad Industrial Area, Bulandshar, Uttar Pradesh' valued at Rs. 1,29,96,000/- (Rupees One Crore Twenty-Nine Lakhs Ninety Six Thousand only), to the sole stakeholder- Canara Bank on 15.02.2023. A copy of the Assignment deed dated 15.02.2023 & Asset Distribution Deed dated 15.02.2023 is annexed to the application and marked as Annexure-22 (colly).
- 18 In light of the order passed by this Adjudicating Authority on 01.02.2023 (*para 17 of this order*) and on account of acceptance of the



OTS proposal from promoters of the Corporate Debtor by the sole stakeholder i.e. Canara Bank (*para 15 of this order*), **IA No. 4722/2020**, filed under section 66 of the IBC, 2016 stands **infructuous**.

19 During the 11th meeting of SCC, the Applicant apprised the SCC about the GST appeal being allowed and that the GST collected against sale of Plant & machinery has been deposited and GST return has been filed. The Applicant further apprised that he has received a claim from GST department for Rs. 11,81,91,770/-which was not accepted by him at this belated stage. A copy of minutes of 11th meeting of SCC dated 14.02.2023 is annexed with the application and marked as Annexure-23. However, there is no application filed by the GST Department which is pending before this Adjudicating Authority as on the date of this Order.

20 The amount distributed to the stakeholders as per section 52/ 53 of the Code are as under: **(in INR Lakhs)**

Sl. No.	Stakeholders* under section 53	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	(a) CIRP Costs	13.14	11.97	11.97	91.09%	Amount admitted on the basis of supporting documents.
2.	(b) Liquidation Costs	39.76	39.76	39.76	100%	
3.	(b) (i) Workmen's	NIL	NIL	NIL	NIL	



4.	(b) (ii) Secured FC	1595.59	1595.59	225.38	14.13%	Building asset of Rs. 129.96 Lakh transferred to Secured FC along with recoveries u/s 66 of Code is included in the distribution amount of Rs. 225.38 lakh.
5.	(c) Employee' wages	NIL	NIL	NIL	NIL	
6.	(d) Financial debts of unsecured creditors	NIL	NIL	NIL	NIL	
7.	(e) (i) Govt. dues	NIL	NIL	NIL	NIL	
8.	(e) (ii) Dues to Secured creditor after enforcement of security interest	NIL	NIL	NIL	NIL	
9.	(f) Remaining debt	NIL	NIL	NIL	NIL	
10.	(g) Preference shareholders	NIL	NIL	NIL	NIL	
11.	(h) Equity shareholders or partners	NIL	NIL	NIL	NIL	
TOTAL		1648.49	1647.32	277.11	16.82 %	

21 The Applicant distributed a sum of Rs. 2,25,38,758/- to the sole stakeholder i.e. Canara bank from the liquidation proceeds in the following manner:

S. No.	Name of Stakeholder	Date of Distribution	Amount Distributed
1.	Canara Bank	30.8.2021	38,63,552.00



2.	Canara Bank	15.9.2021	56,79,206.00
3.	Canara Bank	15.02.2023	1,29,96,000.00
		Total	2,25,38,758.00

(The above distribution includes the unsold assets comprising Building only, valued at Rs 1,29,96,000)

22 The Applicant has made the Final Report in compliance with Regulation 45 of the Liquidation Regulations which contains all details regarding appointment of professionals, distribution to stakeholders, transfer/assignment to stakeholders of unsold assets, fee of liquidator and other professionals, audited accounts of liquidation etc. A copy of Final Report filed by Applicant under Regulation 45 of Liquidation Regulations is annexed to the application and marked as Annexure-24.

23 The Applicant has closed the liquidation account and has filed the Bank account statements from March 2020 to March 2023. A copy of the bank statement of liquidation account is annexed to the application and marked as Annexure-26 (Colly).

24 The affairs of the Corporate Debtor were completely liquidated after realizing the assets and distributing the amount to the stakeholders after complying with the provision of section 53 of the Code in the order of priority as mandated under the Code. Details of realization and distribution have been specifically mentioned in Form-H and Final Report as annexed to the application as **Annexure - '24' and Annexure - '25'** respectively. The Account of Liquidation in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached in the Final Report.

25 Upon hearing the Liquidator and on perusal of 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 statements as on 01.03.2023 (page number 138 of the application) reflects that there is no balance in the bank account.

26 In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved. The Corporate Debtor stands dissolved.

27 The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, (jurisdiction), 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.

28 The Liquidator shall stand discharged from his responsibilities, subject to procedural compliances.

29 I.A. (IB) No. 1635(PB)/2023 and CP (IB) No. 1456(PB)/2019 stand disposed of in accordance with the above directions.

30 The Registry is directed to send e-mail copies of the order forthwith to all the parties for information and for taking necessary steps.

31 Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

32 File be consigned to the record.

Sd/-

**RAMALINGAM SUDHAKAR
PRESIDENT**

Sd/-

**AVINASH K SRIVASTAVA
MEMBER (TECHNICAL)**