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

**IA(IBC)457(KB)2023  
In  
CP(IB)/1365(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:*

**Indian Gem & Jewellery Imperial Private Limited, (CIN:  
U27205WB2006PTC111892);**

*Represented by its Liquidator –*

**Mr. Sanjit Kumar Nayak,**

*.... Applicant/Liquidator*

**Date of Hearing: 19/05/2023**

**Date of Pronouncement: 20/07/2023**

***Coram:***

**Smt. Bidisha Banerjee**

**: Member (Judicial)**

**Shri Balraj Joshi**

**: Member (Technical)**

*Appearances through hybrid mode:*

For the Applicant

: Mr. Shaunak Mitra, Adv.  
Mr. Vikash Singh, Adv.  
Ms. Zeenat Shabab, Adv.  
Mr. Sanjit Kumar Nayak, Liquidator  
in person

## ORDER

*Per: Bidisha Banerjee, Member (Judicial)*

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/457(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 “Liquidation Process Regulations”*) by the Liquidator of **Indian Gem & Jewellery Imperial Private Limited, (CIN: U27205WB2006PTC111892)** (*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. Sanjit Kumar Nayak, Liquidator.
3. This Adjudicating Authority *vide its* order<sup>2</sup> dated 13/11/2019 on a Petition filed by Vasu Publicity Private Limited. (*Operational Creditor*) under section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (*hereinafter called the “CIRP”*) against **Indian Gem & Jewellery Imperial Private Limited (Corporate Debtor)** appointing Mr. Ashok Kumar Agarwal, an Insolvency Professional as Interim Resolution Professional (*hereinafter called the “IRP”*). This Adjudicating Authority, on an application filed by the Committee of Creditors u/s. 22(3) of the Code, *vide its* order<sup>3</sup> dated 25/02/2020 in IA(IB)109(KB)2020 had replaced Mr. Ashok Kumar Agarwal, IRP with Mr. Sanjit Kumar Nayak, an Insolvency Professional as Resolution Professional. Liquidation order<sup>4</sup> was passed on 22/01/2021 appointing the applicant as the Liquidator.
4. As per regulation 41 of the IBBI (Liquidation Process) Regulations, 2016 (in short “**Liquidation Process Regulations**”), the Liquidator had duly opened a bank

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<sup>1</sup> At pages 248 and 249 of the application

<sup>2</sup> Annexure “A” at pages 31 to 39 of the application

<sup>3</sup> Annexure “A” at pages 40 to 41 of the application

<sup>4</sup> Annexure “A-1” to the Final Report at pages 226 to 231 of the application

account being **A/c. No. 7020234593** in the name of “**Indian Gem and Jewellery Imperial Private Limited - in Liquidation**” with Indian Bank, Elgin Road Branch, Vishakha Apartment, 1<sup>st</sup> Floor, 2B, Sambhu Nath Pandit Street, Kolkata 700020.

5. In compliance of regulation 12 of Liquidation Process Regulations Public announcement<sup>5</sup> of commencement of liquidation was made in **Form – B** in “*Business Standard*” (English) and “*Aajkal*” (Bengali) on 26/01/2021 calling upon stakeholders of the Corporate Debtor to submit their proof of claims.
6. In response to public announcement, the Liquidator received claims from the stakeholders in respect of which claims amounting to Rs.58,28,96,824/- were admitted on the basis of proof of claims submitted and accepted by the Liquidator and duly submitted a report in compliance of regulation 31(2) of the Liquidation Process Regulations to this Adjudicating Authority. Copy of latest List of Stakeholders forms **Annexure “C”**<sup>6</sup>.
7. In accordance with the Code and as per terms of Liquidation Process Regulations, the Liquidator had prepared and submitted the Preliminary Report<sup>7</sup> to this Adjudicating Authority including, asset memorandum, proposed plan of actions etc. on 21/04/2021.
8. It is stated in the application that the Liquidator in compliance of the Code and Regulations had duly sent a letter to the RoC, Kolkata informing that the Corporate Debtor is undergoing liquidation, for updating the status of the Corporate Debtor in the Master Data<sup>8</sup> accordingly.

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<sup>5</sup> Annexure – “B” at pages 42 to 44 of the application

<sup>6</sup> At pages 45 to 51 of the application.

<sup>7</sup> Averments in para 5 at page 18 of the application

<sup>8</sup> Averments in para 7 at page 18 Annexure “D” at page 52 of the application

9. In terms of regulation 21A(1) of the Liquidation Process Regulations, Indian Bank, being the only secured creditor, informed the Liquidator of its decision to relinquish its security interest to the liquidation estate in Form C<sup>9</sup>.
10. In compliance of regulation 31A of the Liquidation Process Regulations, the Liquidator duly constituted Stakeholders Consultation Committee (“SCC”) and duly filed List of Stakeholders<sup>10</sup> with this Adjudicating Authority. 1st SCC meetings was held on 01/06/2021. In the said 1<sup>st</sup> meeting of the SCC, members of the SCC had decided for sale of the Corporate Debtor as a going concern. Accordingly, a sale notice dated 18/06/2021 was published mentioning the date of e-auction as 18/07/2021. However, in the wake of COVID-19, no EMD was received.<sup>11</sup>
11. At the 2<sup>nd</sup> meeting of the SCC held on 19/07/2021, the Liquidator had informed to the members of the SCC that since the valuation reports submitted by the Valuers during CIRP period are nearly one year old, because of some changes in the market rate of Gold and Jewellery, it would be beneficial to have a fresh valuation of the Corporate Debtor as per regulation 35(2) of the Liquidation Process Regulations. After due deliberation the members of the SCC had agreed for the fresh valuation. Accordingly, IBBI Registered Valuers had submitted their valuations report as on Liquidation Commencement Date. Copy of all the valuation report submitted by the Valuers forms **Annexure “E”**<sup>12</sup> to the application.
12. Vide order dated 28/03/2022 in IA(IBC)/33(KB)2022, this Adjudicating Authority had granted extension of the liquidation period by 365 days *subject to a cost of Rs.10,000/- to be payable by the Liquidator into the Liquidation account of the Corporate Debtor.*

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<sup>9</sup> Averments in para 8 at page 18 of the application

<sup>10</sup> Annexure “C” at pages 45 to 41 of the application

<sup>11</sup> Averments in para 10 at page 19 of the application

<sup>12</sup> At pages 53 to 112 of the application

13. Altogether the Liquidator had conducted 12<sup>th</sup> E-auctions as follows:

Sl. No.	Date of Auction Notice	Reserve Price
01	22/07/2021	Rs.4,99,16,604/-
02	30/12/2021	Rs.5,27,00,000/-
03	28/02/2022 – Under Swiss Challenge Method	Rs.1,71,71,172/-
04	04/04/2022	Rs.3,95,25,000/-
05	04/05/2022	Rs.2,68,65,000/-
06	31/05/2022	Rs.1,58,38,000/-
07	18/06/2022	Rs.1,42,55,000/-
08	01/07/2022	Rs.1,28,29,000/-
09	04/08/2022	Rs.1,15,50,000/-
10	30/08/2022	Rs.1,04,35,000/-
11	15/09/2022	Rs.93,91,000/-
12	07/01/2023	Rs.88,50,000/-

Copies of all the 12 E-auction notices published by the Liquidator forms **Annexure “F”**<sup>13</sup>.

14. Upon conduction of e-auctions successfully, the Liquidator had issued sale certificates to the successful bidders. Details of successful sale of assets are set out below:

No. of E-Auction Successfully held:	Name of the successful bidder	Nature of assets sold	Amount realised (excluding GST) (Rs)
2 <sup>nd</sup> E-auction dated 22/07/2021	Skyhigh Inc	Innova Car	8,31,000
4 <sup>th</sup> E-auction dated 04/04/2022	Star Brillian	14 & 18 Kt Gold Jewellery	97,55,000
5 <sup>th</sup> E-auction Dated 04/05/2022	Star Brillian	20/22 & 24 Gold Jewellelry & Raw Gold	1,11,89,000
9 <sup>th</sup> E-auction Dated 04/08/2022	Akash Enterprise	Furniture/Jewellery Making Mmachine	34,000
11 <sup>th</sup> E-auction Dated 15/09/2022	Balaji Minerals	Silver Jewellery/ Raw Silver, Imitation, Precious	14,64,000

<sup>13</sup> At pages 113 to 142 of the application

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		Stone, etc	
11 <sup>th</sup> E-auction Dated 15/09/2022	Star Brillion	Loose Diamond	79,57,000
Total			3,12,30,000

Copy of Sale Certificates issued by the Liquidator to the successful bidder forms **Annexure “G”**<sup>14</sup>.

15. At the 18<sup>th</sup> SCC meeting held on 17/01/2023 and adjourned to 03/02/2023, the Liquidator had apprised the members of the SCC with regard to the investment made by the Corporate Debtor in equity shares as well as Security Deposit and payment of Advance Tax with the Authorities of the Corporate Debtor, for which the Liquidator had made several efforts for recovery of such security deposit and advance tax. The SCC members upon deliberation on the possibility of sale of the Investment had expressed that there are remote chances of any buyer of such Investment. The Liquidator had also explained to the members of the SCC provision of regulation 38 of Liquidation Process Regulations, 2016 regarding distribution of unsold assets. Thus, the Indian Bank, secured financial creditor and stakeholder has expressed that there is no buyer of the said Investment and chances of sale of the Investment is remote.<sup>15</sup>
16. The Liquidator out of the total sale proceeds during the Liquidation Process had made distribution in accordance with the provision of section 53 of the Code<sup>16</sup>.
17. IA(IBC)/1377(KB)2022 filed u/s. 43 and 66 of the Code against the suspended members of the Board of Directors of the Corporate Debtor, which is pending for consideration before this Adjudicating Authority. The Indian Bank, secured financial creditor and member of the SCC, has agreed to pursue the aforesaid

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<sup>14</sup> At pages 143 to 167 of the application

<sup>15</sup> Averments in para 22 at page 23 of the application

<sup>16</sup> Averments in para 23 at pages 23 to 27 of the application

proceedings in respect of avoidance transactions and the proceeds, if any, shall be distributed in accordance with section 53 of the Code.<sup>17</sup>

18. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator had filed eight periodical progress reports from time to time before this Adjudicating Authority.<sup>18</sup>
19. In compliance of section 35(2) of the Code read with regulation 8 of the Liquidation Process Regulations, the Liquidator hold Nineteenth SCC meeting altogether.<sup>19</sup> Copies of minutes along with voting results were annexed to the application and forms **Annexure “H”**<sup>20</sup>
20. In compliance of regulation 45 of the Liquidation Process Regulations, the Liquidator has filed the Final Report along with audited receipts and payments and bank statement of the liquidation account, which forms **Annexure “I”**<sup>21</sup> Final Report along with audited receipts and payments and bank statement of the liquidation account has also been forwarded to IBBI vide e-mail dated 15/02/2023<sup>22</sup>.
21. As per regulation 45(3) of the Liquidation Process Regulation, the Liquidation has submitted **Form H**, which forms **Annexure “J”**<sup>23</sup>.
22. In compliance of the order dated 11/05/2023, the Liquidator has filed Supplementary Affidavit affirmed on 15/05/2023 annexing Bank Closure Certificate dated 12/05/2023 issued by the Indian Bank, Elgin Road Branch certifying that the Account No. 7020234593 in the name of Indian Gem and Jewellery Imperial Pvt. Ltd. (In Liquidation) stands closed on 12/05/2023 along

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<sup>17</sup> Averments in para 24 at pages 27 & Annexure H at page 174 of the application

<sup>18</sup> Averments in para 25 at pages 27 of the application

<sup>19</sup> Averments in para 26 at pages 28 of the application

<sup>20</sup> At pages 168 to 202 of the application

<sup>21</sup> At pages 203 to 238 of the application

<sup>22</sup> At page 247 of the application

<sup>23</sup> At pages 239 to 246 of the application

with Statement of Account from 13/05/2021 to 10/02/2023 showing “Zero” balance.<sup>24</sup>

23. The affairs of the Corporate Debtor were completely liquidated after realising the assets and distributing the amount to the stakeholders after complying with the provisions of section 53 of the Code in the order of priority as mandated under the Code. The Liquidation Account in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached along with Bank Statement showing “**zero**” balance in the liquidation account.
24. 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.
25. Since, the Indian Bank, sole Secured Financial Creditor and Member of the SCC has agreed to pursue the IA(IBC)/1377(KB)2022 filed u/s. 43 and 66 of the Code<sup>25</sup> against the suspended members of the Board of Directors of the Corporate Debtor which is pending consideration before this Adjudicating Authority, in view of the facts and circumstances stated above, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly. However, keeping in view of the pendency of IA(IBC)/1377(KB)2020, the main C.P. shall not be disposed of.
26. 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.

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<sup>24</sup> Annexure “A” at pages 4 to 15 of the Supplementary Affidavit affirmed on 15/05/2023

<sup>25</sup> Annexure “H” item 4 of the Minutes of 18<sup>th</sup> SCC Meeting at page 174 of the application

27. The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.
28. **IA(IBC)457(KB)2023** in **CP(IB)/1365(KB)2019** is allowed with the above directions and is accordingly disposed of.
29. **CP(IB)/1365(KB)2019** along with **IA(IBC)/1377(KB)2020** is already posted on **20/07/2023**.
30. 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.
31. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

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

**(Bidisha Banerjee)**  
**Member (Judicial)**

Signed on this, the 20<sup>th</sup> day of July, 2023.

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