IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

I.A. (IB) No. 668/KB/2021
in
C.P (IB) No. 40/KB/2017

Under section 54 of the Insolvency and Bankruptcy Code, 2016 read with regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

In the matter of

Keshav Sponge & Energy Limited

… Corporate Debtor

~And~

In the matter of

Anil Agarwal, Liquidator of Keshav Sponge & Energy Limited

… Applicant

Order reserved on: 18.08.2021
Order pronounced on: 21.09.2021

Coram:

Shri Rajasekhar V.K., Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (through video conferencing):

For the Applicant : Mr. Arun Kumar Gupta, Pr. C.S.

Mr. Anil Agarwal, Liquidator

ORDER

Per Harish Chander Suri, Member (Technical)

1. This court convened *via* video conferencing.

2. 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 Keshav Sponge & Energy Limited (CIN: U26942WB1991PTC141633) ("Corporate "Debtor*"*) praying for dissolution of the Corporate Debtor.

3. *Vide* order dated 16.02.2017 of this Adjudicating Authority, the Corporate Debtor was admitted under CIRP and Mr. Adesh Kumar Mehta, was appointed as the Interim Resolution Professional ("IRP"). Subsequently, his appointment was confirmed as Resolution Professional. The resolution plan was not approved by the Committee of Creditors ("CoC") and at the request of the Resolution Professional, an order of liquidation was passed *vide* order dated 14.11.2017. Mr. Anil Agarwal, the applicant, was appointed as a Liquidator[1].

4. The Liquidator has opened a new bank account in the name of corporate debtor i.e Keshav Sponge & Energy Private Limited under Liquidation [Account number: - 3246002100028772] as per regulation 41 of the Liquidation Process Regulations, with Punjab National Bank, Raipur Branch.

5. Public announcement of commencement of liquidation was made in Form 'B' in *"Business Standard"* (English) and *"Ek Din"* (Bengali), (Kolkata Edition) and in "*Times of India*" (English) and *"Haribhoomi"* (Hindi) (Raipur Edition) on 21.11.2017, 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. The Liquidator re-published the Form B on 03.12.2017, recording the change in the address of the Liquidator in *"Business Standard"* (English) and *"Ek Din"* (Bengali), (Kolkata Edition) and in *"Times of India"* (English) and

[1] Annexure A in Pp. 65-72.

"Haribhoomi" (Hindi) (Raipur Edition) on 03.12.2017. The last date of receipt of claims from the stakeholders was 14.12.2017.

6. The Liquidator had received three claims from financial creditors and two claims from operational creditors and had submitted a report dated 06.03.2019 before the Adjudicating Authority. Subsequently, the Liquidator received claims from operational creditor, workmen and employees after the stipulated time. This Adjudicating Authority *vide* order dated 29.11.2018 passed in I.A. (IB) No. 951/KB/2018 allowed the Liquidator to modify the list of stakeholders.

7. The said list was further updated and the modified list of stakeholders was approved by this Adjudicating Authority on 22.04.2019 in I.A. (IB) No. 400/KB/2019. Notice of the list of stakeholders was published in *"Financial Express"* [English] and *"Aajkal"* [Bengali] on 16.03.2018 and in *"Haribhoomi"* (Hindi) (Raipur Edition), *"Ek Din"* (Bengali) and *"Financial Express"* (English) (Kolkata edition), intimating the modification in the list of stakeholders on 13.12.2018 and in *"Amrit Sandesh"* (Hindi) (Raipur Edition), *"Ek Din"* (Bengali) and *"Financial Express"* (English) (Kolkata edition), on 24.07.2019 in the manner specified under regulation 12(3) of the Liquidation Process Regulations.

8. The Liquidator thereafter filed Preliminary Report as per regulation 13 of the Liquidation Process Regulations as well as Asset Memorandum on 29.01.2018 as per regulation 34(4) of the Liquidation Process Regulations.

9. The average liquidation value computed from the valuation reports of the Registered Valuers are given below:

(in Rs.)

	Adroit Technical Services Private Limited	Bestech Consultants Private Limited	Average Liquidation Value

	Fair value	Liquidation value	Fair value	Liquidation value	Fair value	Liquidation value
Land	5,31,27,000/-	4,25,01,600/-	6,49,44,000/-	4,87,08,000/-	5,90,35,500/-	4,56,04,800/-
Building	4,98,07,464/-	3,48,65,224/-	9,36,08,000/-	7,02,06,000/-	7,17,07,732/-	5,25,35,612/-
Plant & Machinery	33,82,52,500/-	25,51,79,625/-	44,38,67,000/-	33,29,00,250/-	39,10,59,750/-	29,40,39,937.5/-
Current & Non-current assets	3,40,78,914/-	3,40,78,914/-	2,75,98,000/-	2,06,98,500/-	3,08,38,457/-	2,73,88,707/-
Total	47,52,65,878/-	36,66,25,363/-	63,00,17,000/-	47,25,12,750/-	55,26,41,439/-	41,95,69,056.5/-
Valuation of Fixed Assets	44,11,86,964/-	33,25,46,449/-	60,24,19,000/-	45,18,14,250/-	52,18,02,982/-	39,21,80,349.5/-

10. The applicant had conducted two auctions. Notice for the 1st E-auction was published in *"Business Standard"* (English) (Kolkata and Mumbai edition), *"Ek Din"* (Bengali) (Kolkata edition) and *"Haribhoomi"* (Hindi) (Raigarh edition) on 29.03.2018. However, the Liquidator did not receive any Earnest Money Deposit ("EMD") from any prospective buyer. Hence, the Liquidator published another notice in "Business Standard" (English) (Kolkata edition), "Ek Din" (Bengali) (Kolkata edition) and "Haribhoomi" (Hindi) (Raigarh edition) on 18.04.2018.

11. The E-auction was conducted on 15.05.2018 and Seleno Steels Limited was declared as the H1 Bidder and the sale of assets of the corporate

debtor was closed at an amount of Rs.52,28,00,000/- (Rupees Fifty-Two Crore Twenty-Eight Lakh only).

12. The Liquidator made another public announcement for sale of stocks which included raw material, store, scrap and finished products of the corporate debtor on 04.07.2018 in The Pioneer (English) (Raipur edition), but no Expression of Interest was received and the E-auction on 13.07.2018 could not be conducted. The Liquidator sold the stocks by means of private sale as per regulation 33(2) of the Liquidation Process Regulations to Seleno Steel Limited for Rs.59,20,700/- (Rupees Fifty-Nine Lakh Twenty Thousand and Seven Hundred only).

13. It is submitted by the Liquidator that on examination of accounts of the corporate debtor an amount of Rs.24,61,367/- (Rupees Twenty-Four Lakh Sixty-One Thousand Three Hundred and Sixty-Seven only) was receivable from the debtors of the corporate debtor. The Liquidator made several requests to the debtors of the corporate debtor requesting for repayment of the outstanding debt. The Liquidator filed an application before the Adjudicating Authority for extension of liquidation period by a year as a lumpsum amount of outstanding debt was to be collected. This Bench *vide* order dated 18.11.2019 allowed the application and extended the liquidation period.

14. Despite several attempts, the Liquidator was not successful in recovering the outstanding debts due to unavailability of records with regard to the transactions and no reply was received from the debtors.

15. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator has filed Fourteen Progress Reports from time to time before the Adjudicating Authority, and the final report dated 22.07.2021 disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor has been annexed as **Annexure – '1'** to the application. As per mandatory requirement under regulation 45(3) of the Liquidation Process Regulations, the Liquidator

has prepared a compliance certificate under prescribed 'Form H' dated 22.07.2021 and the same is annexed as **Annexure – '2'** to the application**.**

16. The affairs of the Corporate Debtor were completely liquidated after realising the assets and distributing the amount to the stakeholder after complying with the provision of section 53 of the Code in the order of priority as mandated under the Act. Details of realisation and distribution have been specifically mentioned in Form-H and Final Reports as **Annexure – '1' and Annexure – '2'** 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. Bank Statement up to the filing of the application is also annexed with the Final Progress Report**.**

17. Upon hearing the Ld. Authorised Representative 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 and no liabilities of the stakeholder have been left unsatisfied.

18. In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.

19. 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.

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

21. IA (IB) No. 668/KB/2021 and CP (IB) No. 40/KB/2017 shall stand disposed of in accordance with the above directions.

22. All pending IAs shall stand closed.

23. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Authorised Representative for information and for taking necessary steps.

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

25. File be consigned to the record.

[Harish Chander Suri] **[Rajasekhar V.K.]**

Member [Technical] **Member [Judicial]**

21.09.2021.

GGRB[LRA]