

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, NEW DELHI  
BENCH III**

IA/2905/2020 in IB-1368(ND)/2018  
filed under Section 54 of the  
Insolvency and Bankruptcy Code,  
2016 read with Regulation 45 of  
IBBI (Liquidation Process)  
Regulations, 2016

In the matter of **M/s. Moving Picture Company (India) Ltd.,**

**Mr. Yogesh Kumar Gupta**

Liquidator of M/s. Moving Picture Company (India) Ltd.

... *Applicant*

Order delivered on 2<sup>nd</sup> September, 2020

CORAM:

**CH. MOHD SHARIEF TARIQ, HON'BLE MEMBER (JUDICIAL)  
SHRI NARENDER KUMAR BHOLA, HON'BLE MEMBER  
(TECHNICAL)**

For Liquidator: *Neeraj Kr. Gupta (Advocate), Yogesh Kumar Gupta (Liquidator)*

Heard on 26.08.2020

**ORDER**

**PER; NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)**

1. Under adjudication is IA/2905/2020 filed in IB-1368(ND)/2018 on 25.06.2020 under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with 45 of

IBBI (Liquidation Process) Regulations, 2016 by the Applicant/Liquidator viz., Mr. Yogesh Kumar Gupta.

2. The prayers made in Interlocutory Application by the Liquidator are as follows: -

*a. To approve the dissolution of Corporate Debtor*

*b. To pass such other or further order as this tribunal may deem fit and proper in the circumstances of this case.*

3. Originally, IB-1368(ND)/2018 filed by **M/s. Virgo Services LLP (Previously Virgo Services Private Limited)**, being Financial Creditor, under Section 7 of the I&B Code, 2016. The Application was admitted on 11.06.2019 whereby the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor; moratorium was declared and the Applicant viz., Mr. Yogesh Kumar Gupta was appointed as IRP.

4. It is averred that after taking over the management of the Corporate Debtor, the Applicant published Form A in the newspaper on 14.06.2019 in accordance with

regulation 6 of IBBI (Insolvency Resolution Process of Corporate Person) Regulation, 2016 and received, considered and admitted claims in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 Based on the claims received, the Applicant constituted the Committee of Creditors (CoC) on 11.07.2019 in accordance with Regulation 17 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and convened first meeting of CoC on 17.07.2019 whereat inter-alia, the applicant was confirmed as Resolution Professional. The applicant appointed two valuers for valuation of assets of the corporate debtor and the valuation report was submitted by them on 14.08.2019 and 17.08.2019 respectively.

5. The second CoC meeting was convened by the applicant on 09.09.2019 in which the members of CoC unanimously decided to liquidate the corporate debtor on the ground that

- i) The brand name of the Corporate Debtor would not be able to fetch any value.

ii) It was not possible to sell the Corporate Debtor as a going concern or the business of the corporate debtor as a going concern.

iii) In view of inadequacy of the probable value of realization of assets of the Corporate Debtor to meet the CIRP cost, it did not seem feasible to incur further costs on its resolution process and authorized the applicant to file an application for liquidation with Hon'ble NCLT and also resolved to appoint the applicant as liquidator of the corporate debtor in liquidation process.

6. The application for liquidation was filed by the applicant on 24.09.2019 and the same was taken up this Bench on 30.10.2019 and passed the liquidation order. Later on, the applicant requested the rectification of some clerical error in the order dated 30.10.2019 and same was rectified by this bench vide order dated 21.11.2019.

7. That as per the Regulation 12 of IBBI (Liquidation Process) Regulation, 2016 applicant published the Form-B in the newspaper Financial Express (in English) and Jansatta (in Hindi) on 04.11.2019 and the last date of

submission of claims by stakeholders was 29.11.2019. Till last day of submission of claims, the applicant received three claims from following Persons:

i) M/s Virgo Services LLP (Previously Virgo Services Private Limited)

ii) Shri Ramesh Sharma

iii) M/s Moxie Media Private Limited

The claim of Moxie Media Private Limited was not admitted because the claim was not filed in the form prescribed under the Insolvency & Bankruptcy Code (Liquidation Process) Regulations, 2016 and other two claims were admitted after due verification.

8. On the basis of claims received, the applicant constituted Stakeholder Consultation Committee (SCC) in accordance with Regulation 31A of IBBI (Liquidation Process) Regulation, 2016 and communicated such constitution of SCC to members of SCC on 27.12.2019.

9. As Per Regulation 41 of IBBI (Liquidation Process) Regulation, 2016, there is requirement to maintain a separate bank account for receiving and making payments in liquidation process, the applicant converted

the bank account earlier opened in CIR process of the Corporate Debtor with number 600730100020085 for liquidation purpose by changing the nomenclature of the account and adding “under Liquidation” in the name of account and used the bank account for depositing, receiving and making payments in liquidation process.

10. The first meeting of SCC was convened by the applicant on 31.01.2020 in accordance with Regulation 31A (6) of IBBI (Liquidation Process) Regulations, 2016 for considering the public notice and e-tender document to be issued for sale/realization of assets of the corporate debtor. It is also submitted by the applicant that there are only two cars left to realize as assets of the corporate debtor on commencement of liquidation. The applicant relied on the valuation of the assets made during the CIR process.

11. As per the Regulation 33 and schedule I of IBBI (Liquidation Process) Regulation, 2016 the applicant published the sale notice in the newspaper in Financial Express (In English) and Jansatta (In Hindi) on 03.02.2020 for selling the cars and the last date of

submission of tender documents and EMD amount to become eligible in e-auction was 10.02.2020. E-auction for cars was scheduled on 13.02.2020. Till the last day of submission of document, the liquidator received EMD amount from the two prospective bidders. However, only one bidder made a bid in the e-auction on reserve price i.e., Rs. 2,00,000/- (Rupees Two Lacs only) and Rs. 2,25,000/- (Rupees Two Lac Twenty Thousand only) for both cars.

12. The applicant received the full consideration of bid amount and handed over both the cars along with all the relevant transfer documents to successful bidder on 18.02.2020.

13. The applicant distributed the proceeds of realization on 05.03.2020 and 07.03.2020 in accordance with section 53 of IBC, 2016 to the extent available. However, the amount was not sufficient even to meet the cost of CIRP and liquidation cost. A discussion on the issue of probable insufficiency of liquidation Estate was made at second CoC Meeting dated 09.09.2019 under Agenda item no. 6, with an undertaking from Financial Creditor

(M/s Virgo Services LLP) whose application u/s 7 of the IBC, 2016 was admitted by this Bench.

14. It is averred by the applicant that no other asset of corporate debtor is left to be realized and no funds are available to pay off the balance dues of the liquidation cost and other claims of the corporate debtor and with no funds available for distribution to any of the stakeholders/claimants, the applicant closed the bank account number 600730100020085 which was being used in liquidation process for receiving and payment of proceeds on 11.06.2020.

15. In the application filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with 45 of IBBI (Liquidation Process) Regulations, 2016 all the details of Expenses are provided in tabular form. According to the details in Table 1, the total expenses of CIR Process was Rs. 5,17,570/- (Rupees five lac seventeen thousand five hundred seventy) out of which Rs. 4,24,502/- (Rupees four lac twenty-four thousand five hundred two) has been paid and an amount of Rs. 93,068/- (Rupees ninety-three thousand and sixty-eight)

remains outstanding. According to the details enumerated in Table 2, the total expenses incurred in liquidation process was Rs. 2,26,178/- (Rupees two lac twenty-six thousand one hundred seventy-eight) out of which Rs. 51,178/-(Rupees fifty-one thousand one hundred seventy-eight) has been paid and Rs.1,75,000/- (Rupees one lac seventy-five thousand) remains outstanding. In table 3 the details of sale proceeds under liquidation is enumerated.

16. It is further averred that the applicant has prepared the final report and compliance certificate in Form H stating the affairs of Liquidator in liquidation process of corporate debtor and annexed with the application in accordance with regulation 45 IBBI (Liquidation Process) Regulation, 2016 for the purpose of filing with the Hon'ble NCLT as required in the regulation.

17. It is averred that the receipts and payments of the liquidator during the liquidation process have been duly audited by the Chartered Accountant as per sub-regulation 5 of regulation 15 of the IBBI (Liquidation Process) Regulation, 2016 and submitted the same to the

adjudicating authority along with the progress report for the Fourth quarter separately.

18. It is further averred that the applicant has complied with all the statutory obligations to liquidate the corporate debtor and conducted all due diligence in liquidating process and the liquidation process has been completed with the period of 365 days.

19. In view of the above, and the other details provided in the Application under consideration and the record placed on file, this Authority in exercise of the powers conferred under Sub-section (2) of Section 54 of the I&B Code, 2016, hereby orders the dissolution of the Corporate Debtor, viz., **M/s. Moving Picture Company (India) Limited** from the date of this Order, and the Corporate Debtor stands dissolved. Consequently, the Liquidator stands relieved.

20. In order to comply with statutory requirement under Sub-Section (3) of Section 54 of IBC, 2016 the applicant, viz., Yogesh Kumar Gupta (Liquidator) and the Registry are directed to send a copy of this order within 7 days

from the date of pronouncement to the RoC with which the Corporate Debtor is registered.

21. Order is pronounced in open court.

- Sd -

**(NARENDER KUMAR BHOLA)**  
MEMBER (TECHNICAL)

- Sd -

**(CH. MOHD SHARIEF TAROIQ)**  
MEMBER (JUDICIAL)