

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI**

MA/637/2019 in IBA/273/IB/2019
filed under Section 54 of the Insolvency
and Bankruptcy Code, 2016

In the matter of M/s. S.N.K.M And Sons Timbers Private Limited

Mr. Anil Kumar Khicha,
Interim Resolution Professional

... Applicant

Order delivered on 30th of August, 2019

CORAM :

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

Interim Resolution Professional : Mr. Anil Khicha, in person
For Financial Creditor : Mr. M.L.Ganesh, Counsel

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under adjudication is MA/637/2019 in IBA/273/2019 that has been filed by Mr. Anil Kumar Khicha (hereinafter referred to as 'Resolution Professional') under Section 54 of the Insolvency and Bankruptcy Code, 2016

2. The prayers made by the Applicant in the Application are *inter alia* to order for dissolution of the Corporate Debtor.

3. Originally, IBA/273/2019 was filed by Mr. Kishore Kumar Golecha HUF & Anr., the Financial Creditors, under Section 7 of the I&B Code, 2016 against M/s. S.N.K.M and Sons Timbers Private Limited. The Application was admitted on 22.04.2019 whereby the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor, moratorium was declared and thereafter the Applicant viz. Mr. Anil Kumar Khicha was appointed as IRP.

4. It is stated that immediately after receipt of the Order, the Applicant had issued the Newspaper Publication on 24.04.2019 as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the Creditors.

5. It is averred that pursuant to the publication dated 24.04.2019, the Resolution Professional met the suspended directors of the Corporate Debtor and requested them to provide the books of accounts, other relevant records and information including the employees etc., about the Corporate Debtor from 01.04.2017 onwards.

6. It is further averred that the Resolution Professional had sent his team on 02.05.2019 to take custody and control of assets of the Corporate Debtor in accordance with Section 17 (1) (d) of the I&B Code, 2016. It is stated by the Applicant that though the inventory worth Rs.7 Lakhs was available, the condition of the inventory was bad and its realizable value would be around Rs.1 Lakh.

7. It is stated that after repeated reminder, the Resolution Professional had received the financial statements for the year ending 31.03.2017 and 31.03.2018 but the books of accounts for the period from 01.04.2018 were not made available. Further, the suspended directors informed the

Applicant that the Corporate Debtor was not in operations since April, 2018.

8. It is stated that the Resolution Professional received 23 claims from Financial Creditors till 14.05.2019 which includes one secured creditor viz., South Indian Bank. It is further stated that the Resolution Professional has not received any claim from the Operational Creditors, workmen, employees and others. Based upon the claims received as above, the Resolution Professional constituted the Committee of Creditors (CoC) on 16.05.2019 and the 1st CoC Meeting was held on 21.05.2019. Subsequent to that, the Resolution Professional received 8 more claims and accordingly, reconstituted the CoC.

9. It is stated by the Resolution Professional that on 06.06.2019, he had received Form FA from the Financial Creditors for withdrawal of the Application under Section 12 A of the I&B Code, 2016 read with Regulation 30 A of the IBBI (Insolvency Resolution Process for Corporate Person)

Regulations, 2016. In the 2nd CoC Meeting held on 12.06.2019, the CoC has considered that incurring any further cost and time for the CIR Process would be a burden on the CoC and resolved with 91.95% of voting share to withdraw the CIRP under Section 12A.

10. The Resolution Professional has filed a supplementary Affidavit dated 27.08.2019 in which he has stated that this Authority vide order dated 26.06.2019 *inter alia* has directed the Resolution Professional to file a comprehensive status report mentioning details of assets and liabilities of the Corporate Debtor.

11. In the 3rd CoC Meeting held on 08.07.2019, the CoC has recorded that no business assets of high value except scrap inventory, old used office equipment, plant and machinery etc., were available and considering the nature and present status of business, it was not possible to receive any Resolution Plan from the prospective Resolution Applicant, the CoC has recommended for the dissolution of

the Corporate Debtor. The unanimous Resolution passed by the CoC as follows:-

“Resolved that the committee hereby agrees for not appointing valuers, not inviting expression of interest, non conduct of transaction/forensic audit and thereby pray for dissolution of the Corporate Debtor.”

12. It is averred that on the direction of this Authority, the Resolution Professional conducted a private sale of the scrap and inventories and recovered a total amount of Rs.4,98,590/- which includes the Income Tax Refund of Rs.53,510/-. It is further averred that the total expenses incurred by the Resolution Professional till date was Rs.5,96,691/-.

13. In view of the above and the other details such as there are no physical assets available for sale, 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.

S.N.K.M and Sons Timbers Private Limited, from the date of this Order, accordingly the Corporate Debtor stands dissolved. Consequently, the Resolution Professional stands relived.

14. The Resolution Professional and the Registry are directed to send the copy of this order within 7 days from the date of pronouncement to the RoC with which the Corporate Debtor is registered.

15. In terms of the above, the Application stands disposed of.

16. Order is pronounced in open court.

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ANIL KUMAR B
MEMBER (TECHNICAL)

-SD-
CH. MOHD. SHARIEF TARIQ
MEMBER (JUDICIAL)

P.ATHISTAMANI