

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court-II)  
KOLKATA**

I.A.(IB) No. 1425 of 2023  
C.P. (IB) No. 430/KB/2019

*An application under Section 54(1) of the Insolvency and Bankruptcy Code, 2016  
read with  
Regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016 relevant  
provisions of the Insolvency and Bankruptcy Code, 2016.*

**In the matter of:**

Bank of Baroda (Erstwhile Dena Bank)

... FINANCIAL CREDITOR

Versus

Aryavrat Trading Private Limited

... CORPORATE DEBTOR

And

**In the matter of:**

Ms. Rachna Jhunhunwala (Liquidator)

...APPLICANT

**In the matter of:**

1. Bank of Baroda (Erstwhile Dena Bank)

... FINANCIAL CREDITOR

2. Aryavrat Trading Private Limited

... CORPORATE DEBTOR

3. Ms. Rachna Jhunhunwala

... APPLICANT

**Date of pronouncement of order:** 28<sup>th</sup> February, 2024.

**CORAM:**

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)**

**SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)**

**Appearances (via Video Conferencing/Physical):**

Ms. Shreya Chaudhury, Adv.

] For the Liquidator

Mrs. Rachna Jhunhunwala, Adv.

]

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**O R D E R**

**Per: Bidisha Banerjee, Member (Judicial)**

1. Learned Counsel for the Liquidator present.
2. **This application has been filed by the Applicant seeking following reliefs:-**
  - a. To pass order for Closure of Liquidation Process of Aryavrat Trading Private Limited as the same has been sold as Going concern to Mr. Deepak Nagar PAN No. AWFPN6163N under Regulation 32 (e) of the IBBI (Liquidation Process) Regulation, 2016.
  - b. To pass the necessary direction to RoC and other Authority give effect to closer of the Liquidation Process as the CD has been sold as going concern under Regulation 32 (e) of IBBI (Liquidation Process) Regulations, 2016.
  - c. To pass any such order(s) as the Hon'ble Tribunal may deem fit and proper in the light of the fact of the case and submissions made and in the interest of the justice.

**3. Facts of the Case:**

- a. **IA (I.B)/1425/(KB)/2023** is an application filed under section 54(1) of the Insolvency and Bankruptcy Code, 2016 (*hereinafter called the "Code"*) read with regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016 (*hereinafter called the "Regulations 2016"*) by the Liquidator of **ARYAVRAT TRADING PRIVATE LIMITED** (*hereinafter called the "Corporate Debtor"*) praying for dissolution of the Corporate Debtor. This application is duly supported by an affidavit affirmed by the Liquidator.

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- b. This Adjudicating Authority *vide its* order dated 01/04/2022 on a Petition filed by Bank of Baroda (Erstwhile Dena Bank) (*Financial Creditor*) under section 7 of the Code read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 directed initiation of the Corporate Insolvency Resolution Process (*hereinafter called the “CIRP”*) against **M/s Aryavrat Trading Pvt. Ltd.** (*Corporate Debtor*) appointing Mr. Pranab Kumar Chakrabarty, an Insolvency Professional as Interim Resolution Professional (*hereinafter called the “IRP”*). Liquidation order was passed on 11/07/2022 appointing Ms. Rachna Jhunjhunwala, the applicant, as the Liquidator.
- c. The Liquidation process of the CD commenced on 21.09.2022 and the Applicant was appointed as the Liquidator in the said order. Liquidator made public announcement in Form-B on 23.09.2022 in Financial Express (English) and Aajkal (Bengali) for commencement of the Liquidation process against the Corporate Debtor is annexed as **Annexure – A** to the petition.
- d. The Liquidator has duly filed on 21.10.2023 Asset Memorandum comprising of (a) Land & Building and (b) Securities & Financial Assets including other moveable assets under Regulation 44 of the Liquidation Regulations, Insolvency and Bankruptcy Code, 2016 (Amended up to 14.09.2022) the liquidation commencement that is on 20.09.2023.
- e. Efforts were made for selling the CD as a going under Regulation 32(e) of the IBBI Liquidation Process Regulations, 2016, the 1<sup>st</sup> auction sale as a going

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concern had failed. Under Regulation 32 (e) as going concern and a Set of Assets Collectively under Regulation 32(c) in the second e-auction was successful. The two e-auction notice were published on 05/12/2022 and 29/12/2022 as follows:-

<b>Auction no</b>	<b>Date of Sale Notice</b>	<b>Date of auction</b>	<b>Reserve price</b>	<b>Mode of sale</b>	<b>Successful/ unsuccessful</b>	<b>Reason</b>
1	05/11/2022	05/12/2022	1,44,91,000/-	Sale as going concern	Unsuccessful	No Bid Application Received
2	28/11/2022	29/12/2022	1,30,00,000/-	Block A: Sale as going concern or Block B: A Set of assets Collectively	<b>Successful</b>	<b>Mr. Deepak Nagar declared as Successful Bidder.  (Sale As a going concern)</b>

f. The sale proceeds were received in full on 30.03.2023 along with interest of Rs.1,92,329/- for payment made after 60 days by the successful bidder, M/s. Aryavrat Trading Private Limited, Kolkata. The amount was distributed u/s.53 amongst the stakeholders. Sale & Possession Letter was issued to the successful

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bidder. Copy of Distribution Sheet and Sale & Possession Letter issued to successful bidder, Aryavrat Trading Private Limited.

- g. It was decided at the 10<sup>th</sup> SCC meetings held on 13/07/2023 and 18/07/2023 that the avoidance applications u/s. 43 to 66 of the Code to be continued after passing of dissolution order, and that the same shall be pursued by the lead Bank Indian Bank and any realisation shall also go to Indian Bank. In the 10<sup>th</sup> SCC meeting, which was held on 18.05.2023 SCC decided to file an application before Hon'ble NCLT for the closure of the Liquidation Process of Aryavrat Trading Private Limited.
4. Notice for selling under Regulation 32 (e) or A set of Assets of Collectively under Regulation 32 (c) was published on 28.11.2022 for holding e-auction on 28.12.2023 at Rs.1,30,00,000 (Rupees One Crore Thirty Lakhs Only) as approved in the 3<sup>rd</sup> SCC meeting held on 25.11.2022. The date of e-auction was postponed to 29.12.2023, addendum published on 26.12.2022 at the price of Rs.1,30,00,000/- Liquidator received full sale consideration by 30.03.2023 on late payment on 01.04.2023.
5. That assets namely Flat 5E & 5F at Crescent Tower, Kolkata, are been charged to Bank of India. The assets have not been relinquished by Bank of India. It was discovered later that it was also not part of the e-auction process documents. The sale as going concern and the same was agreed by Deepak Nagar and e-mail in this regard is attached as **Annexure-B**.
6. That SARFESI proceedings in respect of the said assets as mentioned in the claim form. This Tribunal *vide* Order dated 10.05.2023 in IA.577/KB/2023 filed by

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Bank of India condoned the delay in filing the claim in terms of Regulation 21A(1) of the Liquidation Regulations.

7. That the Sub-Regulation 2 of the Regulation 21A of the IBBI (Liquidation Process) Regulations, 2016 *vide* email dated 01.06.2023 share of the Liquidation Cost, same was complied by the Bank of India on 11.07.2023.
8. That realisation of the non-relinquished assets shall not exceed as per regulation 21A(2) of the IBBI (Liquidation Process) in the 10<sup>th</sup> SCC meeting, SCC member agreed to the same and decided the Liquidator to file Liquidation closure application.
9. It is submitted that the statement as per the Asset Memorandum Estimated realisable value and actual realisation is as follows:-

Particulars	Amount
<b>Total Receipts Amount (A)</b>	<b>1,47,62,356.97</b>
Liquidation Cost	4,77,847
CIRP Expenses	9,69,488.00
Liquidator Fees on relinquished asset (inclusive of GST Rs.1,43,757.54)	9,42,410.56
Liquidator Fees on non-relinquished asset (inclusive of GST Rs.2,16,703.34)	14,20,610.79
Amount paid to Stakeholder	1,09,52,000.47
<b>Total Amount (B)</b>	<b>1,47,62,356.97</b>

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**10.** It is submitted that under Section 53 of the IBC, 2016 on 31.03.2023 that is 8<sup>th</sup> SCC and on 20.07.2023 that is 10<sup>th</sup> SCC distribution sheet was placed before the SCC in the meeting held on 31.03.2023 and 18.07.2023 the same was approved and the copy of the minutes of 8<sup>th</sup> and 10<sup>th</sup> SCC are attached as **Annexure C**.

**11.** Liquidation cost exceed the estimated liquidation cost due to the increase in Legal Expenses, Estimated Liquidation Cost was Rs. 3,54,940/- . The actual expenses incurred was Rs. 4,77,847/- are of exclusive of liquidator fees.

**12.** That Application Under Section 43 to 66 was filed on 28.02.2023 is pending for disposal before the Hon'ble NCLT and after the closer of Liquidation process shallbe pursued by SCC member India Bank, SAM Large Branch.  
Therefore:

- i. The Liquidator has sold the CD as a going concern;
- ii. The Sale Proceeds have been duly distributed as per IBC;
- iii. All reports have been duly filed.
- iv. Audited Receipts & Payments of Liquidation for the period 21-09-2022 to 31-03-2023 was filed with 3<sup>rd</sup> Progress Report and Audited Receipts & Payments of Liquidation for the period 01-04.2023 to 03-08-2023 have been audited and is being filed with Final report before Closure of the Liquidation Process.
- v. Liquidation A/C of the CD has been closed on 03.08.2023.

**13.** The Liquidator has shown in the application estimated liquidation value and realisation amount vis-à-vis breakup of amount realised, liquidation costs

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(inclusive of liquidator's fees and provision for expenses) and amount distributed to stakeholder.

- 14.** The Liquidator has duly annexed with the application copy of statement of bank account maintained with Indian Bank during CIRP period, which forms **Annexure-D.**
- 15.** The Liquidator has annexed closure certificate of liquidation account being **A/c.No.7303119537** issued by the Indian Bank, 3/1, R N Mukherjee Road, Sree Ram Chambers, Kolkata maintained in the name "Liquidation A/ Aryavrat Trading Private Limited" certifying that the said account has been closed after the balance become "**zero**" along with statement of account.
- 16.** The Liquidator duly intimated to the following statutory authorities, as applicable,

Sl.No.	Name of the statutory authority	Date of intimation
a)	PF	24/09/2023
b)	ESI	24/09/2023
c)	Income Tax Dept.	24/09/2023
d)	GST/VAT	24/09/2023
e)	RoC/RD	24/09/2023

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17. The Liquidator had held ten SCC meetings altogether and in compliance of regulation 15 of the Regulations 2016, the Liquidator had filed four Periodical Progress Reports from time to time before this Adjudicating Authority.
18. As per Form H submitted by the Liquidator, application u/s. 43 to 66 shall be pursued by the financial stakeholder, Punjab National Bank and they shall be beneficiary of any proceeds that come out from the application.
19. In terms of regulation 45(3) of the Regulations 2016, the Liquidator has also filed **Final Report** and Compliance Certificate in **Form H** as well as a copy of **Bank Statement** showing “zero” balance in the liquidation account.
20. 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.
21. 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)/1425(KB)2023 and IA(IBC)/479(KB)2023, **the main C.P. shall not be disposed of.**
22. 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

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**fourteen days** of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.

**23.** The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.

**24.** **IA(IBC)1425(KB)2023** in **CP(IB)/430(KB)2019** is allowed with the above directions and is accordingly **disposed of**.

**25.** **CP(IB)/430(KB)2019** along with **IA(IBC)/479(KB)2020** are already posted on **06/03/2024**.

**26.** 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.

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

**D. Arvind**  
**Member (Technical)**

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

Signed on this, the 28<sup>th</sup> of February, 2024.

SG, Steno.

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