



IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH - BENGALURU
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(Through web-based video conferencing platform)

I.A.No.157/2023

U/s.54 r/w Section 60 (5) of the I & B Code, 2016 and
Regulation 45 (3) (B) of IBBI (Liquidation Process) Regulation 2016

C.P. (IB) No.204/BB/2020

U/s.7 of IBC, 2016

R/w Rule 4 of I&B (AAA) Rules, 2016

In the matter of:

Shri Venkata Subbarao Kalva,

Liquidator of SWE Fashions Private Limited,

#41/1, 2nd Floor, 11th Cross, 8th Main,

Jayanagar 2nd Block,

Bengaluru - 520011

... Applicant/Liquidator

Order delivered on: 15th September, 2023

Coram: 1. Hon'ble Justice (Retd.) T Krishnavalli, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Present:

For the Applicant : Shri Hemanth Rao

ORDER

Per: Manoj Kumar Dubey, Member (Technical)

1. The present application is filed on 03.03.2023 by Shri.Venkata Subbarao Kalva, Liquidator of SWE Fashions Private Limited u/s 54 read with Section 60 (5) of the I & B Code, 2016 and Regulation 45 (3) (B) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016 *inter alia* seeking to consider and order the Corporate Debtor as dissolved pursuant to



the provisions of Section 54(2) of the I & B Code, 2016 r/w Regulation 45 (3) (B) of the IBBI (Liquidation Process) Regulation 2016 etc.

2. Brief facts of the instant Application, which are relevant to the issue in question, are as follows:

- (1) The Adjudicating Authority, vide its order dated 23.03.2021 initiated Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor by appointing Shri Venakata Subbarao Kalva as Interim Resolution Professional (IRP), imposing moratorium etc. Further, in the first meeting of Committee of Creditors (COC) held on 21.04.2021, the IRP was confirmed as the Resolution Professional of the Corporate Debtor and the same was approved by this Adjudicating Authority vide order dated 06.08.2021.
- (2) It is stated that in the sixth meeting of the COC held on 09th December 2021, the CoC considered the initiation of liquidation of the Corporate Debtor and approved the same with 98.80% of the voting share. In the light of the decision taken at the 6th CoC meeting, I.A NO.389 of 2021 was filed by the RP before this Adjudicating Authority (AA) for liquidation of the Corporate Debtor and the same was approved vide order u/s 33 (1) of IBC dated 08.03.2022 and RP was approved as Liquidator.
- (3) As per Regulation 12 of the I & B (Liquidation Process) Regulation 2016, the Liquidator made the public announcement on 22.03.2022 in two newspapers viz., Financial Express (English Language) and Samyuktha Karnataka (Vernacular language) and the Applicant also sent intimation to the respective authorities which is found at Page-11 (Para B) of the application.
- (4) The Liquidator received claim from Secured and Unsecured Creditors, Operational Creditors, Employee and Statutory Authorities for Rs.56,70,52,510/- and the Liquidator admitted claim amount of Rs. 45,06,94,032/-. The list of Stakeholders was prepared on the basis of claims received and the proof of claims as per Regulation 31 of the IBBI



Regulation 2016. Further, pursuant to Regulation 31A of the IBBI (Liquidation Process) Regulation 2016, the Liquidator constituted the Stakeholder's Consultation Committee on 18th May 2022, based on the representation received from the Creditors of each class. The list of the Members of the Stakeholder's Consultation Committee is mentioned at Page-13 of the application. Further, Pursuant to the amendment to the provisions of IBBI (Liquidation Process) Regulation 2016 i.e., as per the provisions of Regulation 31A. The Stakeholders Consultation Committee was reconstituted with the following members:

| Sl. No. | Name of Members | Representing Stakeholders Classes |
|---------|---------------------------|--|
| 1. | Ms. M.S Sujatha | Authorised Representative for Government Authorities |
| 2. | Mr. U.K Nagpal | Authorised Representative for Unsecured Financial Creditors |
| 3. | Mr. Shankar Kollabettu | Authorised Representative for Secured Financial Creditor (SBI) |
| 4. | Mr. N.K.Lakshmi Narasaiah | Authorised Representative for Operational Creditors |
| 5. | Ms. Dhanalaskhmi Reddy | Authorised Representative for Shareholders |
| 6. | Mr. Govinda Raju | Authorised Representative for Workmen and Employees |

- (5) It is stated that as per Regulation 34 and as per Regulation 13 of the IBBI (Liquidation Process) Regulation 2016 the Asset Memorandum and the Preliminary Report was submitted on 3th June 2022. Further, the rental agreement was executed between Ms. V.Shanthi Kumari (Lessor) and the Liquidator representing Corporate Debtor (Lessee) on 8th September 2022; and books of accounts and records of the Corporate Debtor situated at Plot No. W-12& 13 (P) Apparel Park, KIADB Industrial Area, Doddaballapur, Bengaluru Rural was shifted to rented premises at #14, Lakshmi Venkateshwara Nilaya, 32nd Main, 2nd cross, BWSSB Road, Golden Enclave Layout, Poorna Pragna Layout, Near Sandhya Deepa



- Trust, Uttarahalli, Bengaluru – 560061 on 23.09.2022 to dispose the factory premises of the Corporate Debtor by the Secured Financial Creditor (State Bank of India) under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFESAI Act, 2002). The Liquidator has submitted various reports before this Adjudicating Authority and the same is mentioned at Page 16 of the application.
- (6) It is stated that the State Bank of India, the Secured Financial Creditor submitted their claim in Form-D under Regulation 18 of the IBBI (liquidation Process) Regulation 2016. Security interest on Land and Building, Plant and Machinery and Inventory (movable assets) not relinquished to the liquidation estate and opted to dispose the assets under SARFESAI Act, 2002 and conducted E-auction on 12th July 2022 for an amount of Rs.10.48 crores against the reserved price of Rs.10.46 crores. The buyer has paid an amount of Rs.2.62 crore on 12th July 2022 and 7.86 crore on 26th August 2022 respectively. Secured Creditor registered the property and handover the plant and machinery and inventories to the buyer. Trade Receivables are relinquished to liquidation estate and the liquidator sent recovery notices through speed post and email to Trade Debtors on various dates; however no response received from them. The Liquidator also appointed S3G Debt Management as debt recovery agent for recovering receivable of Corporate Debtor. The S3G Debt management followed up with trade debtors by sending recovery notices on various dates and over phone calls. No response received from Trade Debtors.
- (7) At 2nd Stakeholder’s Consultation Committee meeting held on 7th October 2022, the Members approved to dispose the Trade Receivables at a Reserve Price of Rs.10,000 through E-auction. The Liquidator made a public announcement regarding the conduct of E-auction for the sale of trade receivables of the Corporate Debtor in ‘Financial Express’ and ‘Samyuktha Karnataka’ newspapers on 17th October 2022 and the E-



auction was conducted on 10th November 2022 through ncltauction.auctiontiger.net at the reserved price of Rs.10,000. Highest bidding amount finalised as Rs.11,000. The bidder deposited Earnest Money Deposit (EMD) of Rs.1,000 on 8th November 2022 and the balance amount of bid price Rs.10,000 deposited on 13th November 2022 in the Corporate Debtor's bank account (Liquidation Account). The trade receivables data has been handed over to the bidder.

- (8) The amounts distributed to stakeholders as per Section 53 of the code are as under:

| Sl. No. | Stakeholder* under Section 53 (1) | Amount Claimed | Amount admitted | Amount distributed | Amount distributed to the Amount claimed (%) | Remarks |
|---------|-----------------------------------|----------------|-----------------|--------------------|--|--|
| | (2) | (3) | (4) | (5) | (6) | (7) |
| 1. | (a): CIRP Costs | - | - | 2664959 | 100% | Expenses incurred for CIRP Process |
| 2. | (b): Liquidation Costs | - | - | 1057130 | 100% | Expenses incurred for liquidation expenses |
| 3. | (b) (i) | 780000 | 780000 | - | - | - |
| 4. | (b)(ii) | | | | | |
| 5. | (c) | | | | | |
| 6. | (d) | 121242525 | 30569409 | - | - | |
| 7. | (e)(i) | 46125102 | 46125102 | - | - | - |
| 8. | (e) (ii) | | | | | |
| 9. | (f) | 68268365 | 44552995 | | | |
| 10. | (g) | | | | | |
| 11. | (h) | | | | | |

- (9) Further, request for closure of the liquidation Bank account in the name and style of SWE Fashions Private Limited – In Liquidation was submitted on 28.02.2023 with State Bank of India, Apparel Park Branch, Doddaballapur, Bengaluru Rural. It is further stated that the Employee Provident Fund Organisation (EPFO) filed an I.A before the Adjudicating Authority under Section 42 and 60 (5) (c) of I & B Code 2016 for condonation of delay in submitting the claim and priority to the payment over the other debts as per Section 11 of EPF and MP Act, 1952 for their



claims amount to Rs.2,31,40,833 in I.A No.396 of 2022 in C.P (IB) No. 204/BB/2020. The Liquidator filed reply on 11.11.2022 and during the hearing he submitted that the claim was admitted and will be considered according to the I & B Code 2016 and relevant regulations. Therefore, the AA vide its order dated 20.12.2022 dismissed the application of EPFO as infructuous. Further there is pending case filed against the Corporate Debtor before the commencement of CIRP by Indigo Multifab Private Limited in Commercial Suit No. 203/2019 before the Delhi High Court. Further, the Liquidator has sent intimation on completion of the liquidation process to all statutory authorities. The Liquidation also obtained the audit report on Statement of Receipts and Payments of Corporate Debtor for the liquidation period from 08.03.2022 to 28.02.2023 from Nikhil C.P and Company Chartered Accountants.

3. Heard the learned Counsel for the Applicant. We have carefully perused the pleadings of the Party along with extant provisions of the Code and the Regulations made thereunder.
4. On 4th July 2023, the Ld. Counsel for the Applicant was directed to file affidavit with regard to prayer-F in the I.A regarding the discharge of all pending litigations against the Corporate Debtor along with justification of the prayer. In compliance of the same, the Ld. Counsel has filed a Memo vide Dy. No. 3566 dated 05.07.2023 and has withdrawn the Prayer-F of the application.
5. From a perusal of the details narrated supra, it appears that the Liquidator has complied with all the conditions and procedural requirements, as specified under various provisions of Section 54 of the Insolvency & Bankruptcy Code, 2016 and also the extant IBBI Regulations. We have also considered the manner in which the available assets have been dealt with prior to the dissolution of the Corporate Applicant. It is seen from the liquidator's statement that there is no realization of assets, no amount in the



bank and the movable and immovable property are liquidated, hence there is nothing left to be liquidated or distributed. In view of this factual matrix, we are of the view that the said I.A. No.157 of 2023 seeking dissolution of the Corporate Applicant deserves to be allowed, as prayed. As the I.A.No.157 of 2023 is disposed of allowing dissolution of the Corporate Applicant, consequently the C.P. (IB) No.204/BB/2020 also stands disposed of.

6. In the result, in exercise of the powers conferred on the Adjudicating Authority, under Section 54 of the Code, the Interim Application bearing **I.A.No.157of 2023 and C.P.(IB)No.204/BB/2020** is hereby disposed of with the following directions:

- (1) The Corporate Debtor, namely, **SWE Fashions Private Limited** is dissolved, with immediate effect;
- (2) The Registry is directed to forward a copy of this Order to the Registrar of Companies Karnataka, Bangalore, within a period of two weeks from the date of receipt of this order, for further necessary action as prescribed under Law;
- (3) The Ld. Liquidator is directed to forward copies of this Order to all other Statutory Authorities connected with the affairs of the Company, for further necessary action as prescribed under Law.
- (4) With this, the instant **I.A. No.157 of 2023**, and the Company Petition bearing **C.P. (IB)No.204/BB/2020** also stands **disposed of**.

Sd/-

**(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)**

Sd/-

**(T.KRISHNAVALLI)
MEMBER (JUDICIAL)**