

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

I.A.(IB) No. 977 of 2022
C.P. (IB) No. 1850/KB/2019

*An application under Section 54 of the Insolvency & Bankruptcy Code, 2016
read with Rule 11 of the Insolvency & Bankruptcy (Application to the
Adjudicating Authority) Rules, 2016*

In the matter of:

Royalpet Vanijya Private Limited

...FINANCIAL CREDITOR

Versus

M/s Balgopal Distributors Private Limited

...CORPORATE DEBTOR

And

In the matter of:

Mr. Kailash Kumar Rathi

...APPLICANT

In the matter of:

1. Royalpet Vanijya Private Limited

...FINANCIAL CREDITOR

2. M/s Balgopal Distributors Private Limited

...CORPORATE DEBTOR

3. Mr. Kailash Kumar Rathi

...APPLICANT

Date of pronouncement of order: 01.04.2024

CORAM:

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)
SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)**

Appearances (via Video Conferencing/Physical):

None for the parties.

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O R D E R

Per: Bidisha Banerjee, Member (Judicial)

1. The Court congregated in a hybrid mode.
2. **I.A. No. 977/KB/2022 is filed by the Applicant seeking following reliefs:**
 - a. To pass an order of dissolution of the Corporate Debtor in accordance with law.
 - b. Such further order or orders, direction or directions be passed as to this Hon'ble Tribunal may deem fit and proper.
3. **Facts of the Case:**
 - a. This is an application for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP') under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy Rules, 2016 was filed by the Financial Creditor M/s. Royalpet Vanijya Private Limited.
 - b. That CIRP commenced by an order dated 17th February, 2020 passed by the Hon'ble National Company Law Tribunal, Kolkata Bench (hereinafter referred to as 'NCLT'). This application for liquidation was filed and numbered as IA(IB)656/KB/2021. This said application was heard and an order was pronounced on 09.11.2021, wherein the Corporate Debtor was ordered to be liquidated and the present Applicant was appointed as the Liquidator.
 - c. That the Order dated 17th February, 2020 the public announcements by way of paper publications in Bengali & English newspapers namely "Ekdin" and "Financial Express" were made on 25th February, 2020, which is annexed as **Annexure B**.

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- d. That in the application for liquidation was filed and numbered as IA(IB)656/KB/2021. This application was heard and an order was pronounced on 09.11.2021 wherein the Corporate Debtor was ordered to be liquidated and the present Applicant was appointed as the Liquidator, which is annexed as **Annexure F**.
- e. In the Second meeting dated 29th July, 2022 of the stakeholders decided that no further auction for sale of liquidation assets (including auction for sale of individual asset) to be done and the liquidator shall apply for early dissolution as per Regulation 14 of IBBI (Liquidation Process) Regulation, 2016.
- f. Various provisions of the Code dealing with the dissolution of the Corporate Debtor are as follows:

“54. Dissolution of corporate debtor. -

(1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.

(2) The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.”

Regulation 14 of IBBI (Liquidation Process) Regulations
provides as under:

“14. Early dissolution.

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Any time after the preparation of the Preliminary Report, if it appears to the liquidator that-

- (a) the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process; and*
- (b) the affairs of the corporate debtor do not require any further investigation;*

he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution.”

- g. A conjoint reading of these two provisions leads to the requirement of completion of the liquidation of the assets of the corporate debtor and subsequent application to the Adjudicating Authority by the liquidator for dissolution under section 54 of the IBC where the assets of the Corporate Debtor has been completely liquidated after distribution among the Stakeholders or for early dissolution under regulation 14 of the Liquidation Process Regulations when the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process, the liquidator may apply to the Adjudicating Authority for early dissolution.
- h.** In view of the above facts and circumstances, this Adjudicating Authority in exercise of the powers conferred under sub-section (2) of section 54 of the Code hereby order dissolution of the Corporate Debtor, viz., **Balgopal Distributors Private Limited** from the date of this Order, and the Corporate Debtor stands dissolved. Consequently, Liquidator stands relieved subject to all procedural compliances.
- i. The Liquidator and the Registry are hereby directed to serve a copy

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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.

- j. **IA(IBC)/977(KB)2022** along with **CP(IB)/1850(KB)2019** is allowed and **disposed of** with the above directions.
- k. 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.
- l. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
- m. File be consigned to records.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, 1st April, 2024.

SG, (Steno)