

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

**IA No.530/2022
In
CP (IB) No.222/Chd/Hry/2019
(admitted matter)**

**Under Section 54 of the
Insolvency and Bankruptcy Code,
2016**

In the matter of :

Abhyudaya Co-operative Bank Limited ...Financial Creditor
Versus
Bhagwandas Ispat Pvt. Ltd. ...Corporate Debtor

And in the matter of: -

IA No.530/2022

Prajakta Menezes, Liquidator

with Registered address at
416, Crystal Paradise Co-op soc Ltd.,
Dattaji Salvi Marg. Adobe Pizza Express,
Off Veera Desai Road, Andheri West,
Mumbai, Maharashtra- 400053

...Applicant/Liquidator

Judgment delivered on: 18.07.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present : -

For the Applicant/Liquidator : Ms. Swati Saluja, Advocate

Per: Subrata Kumar Dash, Member (Technical)

JUDGEMENT

1. IA No.530/2022 in CP (IB) No.222/Chd/Hry/2019 is being filed by Prajakta Menezes, the liquidator of M/s Bhagwandas Ispat Pvt. Ltd- Corporate Debtor under Section 54 of Insolvency and Bankruptcy Code, 2016 for the dissolution of Corporate Debtor i.e. **M/s Bhagwandas Ispat Pvt. Ltd.**

2. The main Company Petition bearing CP(IB) No.222/Chd/Hry/2019 was filed by Abhyudaya Co-operative Bank Ltd-Financial Creditor under Section 7 of IBC and was admitted by the Adjudicating Authority, by order dated 23.10.2019 for initiating CIRP and Ms. Prajakta Avil Menezes was appointed as Interim Resolution Professional. Afterwards, the IRP is appointed as the Resolution Professional of the Corporate Debtor. Subsequently, the Adjudicating Authority by its order dated 14.02.2020 has passed an order for the liquidation of the Corporate Debtor under Section 33(2) of IBC, 2016 and appointed the Resolution Professional to act as Liquidator under Section 34(1) of IBC, 2016.

3. The Liquidator made the public announcement in FORM B dated 19.02.2020, under Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 in two newspapers, which were published on 19.02.2020 in Financial Express and on 20.02.2020 in Jansatta. The last date for filing the claim has been fixed as 15.03.2020.

4. Pursuant to the public announcement, the liquidator has received one claim i.e. from Abhyudaya Co-operative Bank Limited- Financial Creditor. The liquidator has verified the claims amounting to Rs. 18,06,84,130/- by the Financial Creditor in accordance with Regulation 30 of IBBI (Liquidation Process) Regulation, 2016. The liquidator constituted the Stakeholders

Consultation Committee dated 18.07.2020 as per Regulation 31A of IBBI (Liquidation Process) Regulation, 2016 and conducted its first meeting on 20.07.2020. The minutes of the 1st meeting of SCC has been attached as Exhibit-R of the application.

5. Pursuant to Regulation 35 of IBBI (Liquidation Process) Regulation, 2016, the Liquidator appointed two Valuers i.e. Sh. Kishor K Vikamsey, Regd. Valuer with IBBI, Regn. No. IBBI/RV/07/2018/10407 and Mr. Sanjay S. Dalvi, Regd. Valuer with IBBI, Regn. No. IBBI/RV/07/2019/11464 for valuation of the assets of the Corporate Debtor by Resolution Professional. The Fair Value and Liquidation Value had been submitted by both valuers on the Land of the Corporate Debtor in their detailed reports dated 10.03.2020. The liquidator has prepared an Asset Memorandum Report and Preliminary Report both dated 27.04.2020 (Exhibit M) as the Secured Creditor has also relinquished its security interest and the same form part of the liquidation estate.

6. It is further submitted that the estimated realizable value of the Corporate Debtor was around Rs. 2,16,99,250/- (Rupees Two Crores Sixteen Lakhs Ninety-Nine Thousand Two Hundred Fifty only) and due to the significant variations in the values as provided by both the valuers mentioned above, the Applicant appointed 3rd Valuer i.e. Keshav Arvind Chikodi on 30.05.2020. The third valuer has submitted his valuation report dated 06.07.2020.

7. It is averred that after conducting the valuations, the liquidator has published an advertisement on 22.07.2020 for the e-auction of the assets of the Corporate Debtor along with the corrigendum published on 31.08.2020 in two newspapers namely Financial Express & Jansatta (Delhi Edition). As no

bid has been received, the applicant re-published an advertisement on 25.02.2021 for e-auction of the assets of the corporate debtor and corrigendum to the notice of the sale was published on 31.03.2021 in two newspapers.

8. It is further submitted that the Liquidator vide email dated 20.09.2021 duly offered the said property to an interested buyer viz. Starshine Manufacturing Company Private Limited through private sale on the terms and conditions as mentioned in the process memorandum dated 15.04.2021 and the copy of the e-mail is attached as Exhibit AB of the application. In view of the email sent by the liquidator, the buyer has deposited an Earnest Money Deposit of INR 14,33,250/- (Rupees Fourteen Lakhs Thirty-Three Thousand Two Hundred Fifty Only) Only) on 12.10.2021 for the same.

9. The Liquidator has filed Form H by Diary No. 01275/3 dated 29.11.2022 under Regulation 45 of IBBI (Liquidation Process) Regulation, 2016. The Liquidator has also stated that the entire process of the Liquidation has been completed within the extended time period as per order of this Tribunal dated 24.11.2019. It is also stated that no Stakeholder's Consultation Committee was required to be formed in the present Liquidation Process as liquidation was commenced on 22.02.2019 i.e. prior to the amendment. The Liquidator has also recovered all liquidation costs along with the liquidator's fee and no other application concerning the subject matter has been filed before any other Court.

10. This present IA was reserved on 01.02.2023 and was relisted by this adjudicating authority via order dated 17.03.2023 in which removal of defects/irregularities with respect to the affidavit of the purchaser of the

property i.e. Sunshine Mfg. Co. Pvt. Ltd., as to being a “related party” or not is sought, as no affidavit in such regard had been put forward by the applicant. Thereafter, the applicant filed his compliance affidavit via Dairy No. 00809/4 dated 06.04.2023 whereby it has been stated that M/s Starshine Manufacturing Company Private Limited does not fall under criteria of a “related party” of the corporate debtor under the relevant provisions of the Code, 2016 based upon the scrutiny of the information available in the public domain.

11. Heard, Ms. Swati Saluja, counsel for the Liquidator and Prajakta Menezes, learned Liquidator. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

12. The present application is filed under Section 54 of the I&B Code. The relevant provisions of Section 54 of the IBC read as under:-

“Section 54 of the IBC

- 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 data is registered.”*

13. The above facts have established that due process of Liquidation as per extant provisions was followed by the Liquidator. The Financial Creditor has exercised its security interest under Section 52(1) (b) of the Code and the Liquidator has handed over the assets of the Corporate Debtor. In Form-H it has also been seen that there are no applications pending under Sections 43,

45, 50 and 66 of the Code. The Financial Creditor has sold the Land and Building at Rs. 8.68 Crores which are above the liquidation value of the Corporate Debtor. The Liquidator has also stated that the whole liquidation cost has been received and no dues are pending. Therefore, the liquidation process is deemed to have been completed under Chapter III of Part II of the Code, and thus it would be just and proper for the Adjudicating Authority to dissolve the Company. No party is going to be affected by dissolving the company.

14. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54(2) of the Code, the Interim Application bearing IA No.530/2022 In CP (IB) No.222/Chd/Hry/2019 is disposed of with the following directions:

- (i) M/s Bhagwandas Ispat Pvt. Ltd, the Corporate Debtor, is hereby dissolved with immediate effect;
- (ii) The Liquidator is directed to close the Liquidation Bank Account within three weeks from the date of receipt of the copy of this order.
- (iii) The Registry is directed to forward a copy of this order to the Concerned Registrar of Companies within a period of two weeks from today.
- (iv) The Liquidator is also directed to forward copies of this order to all other statutory authorities connected with the affairs of the Company.

- (v) The liquidator, Mr. Prajakta Menezes is discharged from his duties and responsibilities as the liquidator of the corporate debtor company

15. Accordingly, IA No.530/2022 also stands allowed and disposed of.

-sd-
(Subrata Kumar Dash)
Member (Technical)

-sd-
(Harnam Singh Thakur)
Member (Judicial)

July 18, 2023

JGS