IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.201

IA/217(MP)2021 in TP 242 of 2019 [CP(IB) 80 & 81 of 2017]

Proceedings under Section 54 r.w Reg 45 r.w Rule 11 of NCLT,2016

IN THE MATTER OF:

Liquidator Ravi Kapoor For BCC Estate Pvt Ltd ....**Applicant**

Order delivered on 22/12/2022

Coram:

Dr. Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

Sd/- Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

DR. MADAN B. GOSAVI
MEMBER (JUDICIAL)

Braj Mohan

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA/217(MP)2021
In
TP 242 of 2019 [CP(IB) 80 & 81 of 2017]

[Application for dissolution of Corporate Debtor under Section 54 of the Insolvency & Bankruptcy Code, 2016]

Through

Ravi Kapoor
Liquidator of BCC Estates Private Limited
402, Shaival Plaza, Gujarat College Road
Ellisbridge, Ahmedabad **Applicant**

IN THE MATTER OF:

IDBI Bank Limited **Applicant**

Versus

BCC Estates Private Limited **Respondent**

Order reserved on: 24.11.2022
Order pronounced on: 22.12.2022

Coram: Dr.Madan B. Gosavi, Member (J)
Kaushalendra Kumar Singh, Member (T)

Appearance:

For the Applicant: Learned Counsel Mr. Harshil Patel

ORDER

1. The instant application has been filed by the Liquidator under Section 54 of the Insolvency and Bankruptcy Code, 2016 (**"Code"**) read with Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (**"Liquidation Regulations"**) and Rule 11 of the NCLT Rules, 2016 seeking the order of dissolution of the corporate

debtor i.e. BCC Estates Private Limited, on the ground that the assets of the corporate debtor have been fully liquidated.

2. The corporate debtor was admitted in Corporate Insolvency Resolution Process (CIRP) by the Adjudicating Authority vide its order dated 06.09.2017, on an application filed by the financial creditor i.e. IDBI Bank Limited under section 7 of the Code and the applicant herein was appointed as Interim Resolution Professional (hereinafter referred to as "IRP").

3. The facts as narrated by the applicant are summarized hereunder:

(i) The first Committee of Creditors (CoC) meeting was held on 06.10.2017 consisting of financial creditors of corporate debtor as well as financial creditor of Bhatia Global Trading Limited, to whom the corporate debtor had provided corporate guarantee. It was further resolved in the said meeting to continue the IRP as Resolution Professional (hereinafter referred to as "RP").

(ii) Since no resolution plans were received within the time specified in expression of interest, the CoC in its 4th meeting resolved to liquidate the corporate debtor and therefore, the applicant filed an application under section 33 of the Code being I.A. No. 88 of 2018.

The Adjudicating Authority vide its order dated 13.07.2018 passed an order for liquidation of the corporate debtor and appointed the Applicant as Liquidator under Section 34(1) of the Code. Further the applicant made public announcement on 17.07.2018 in Form B of Schedule II under Regulation 12 of the Liquidation Regulations in Free Press and Nav Bharat, Indore edition; Business Standard, Mumbai edition, inviting claims from all the stakeholders, financial creditors of the corporate debtor.

(iii) The valuers- Mr. Arvind Agrawal and Mr. Yardi Prabhu were appointed for the valuation of the assets of the corporate debtor as per Regulation 35(2) of the Liquidation Regulations. The list of stakeholders as required under Regulation 31 of the Liquidation Regulations was filed with the Adjudicating Authority on 01.10.2018, which was subsequently modified and approved by the Adjudicating Authority.

(iv) In compliance of Regulation 13 and Regulation 34 of the Liquidation Regulations, the Applicant on 01.10.2018 filed before this Adjudicating Authority the Preliminary Report and the Asset Memorandum respectively, within 75 days from the Liquidation commencement date; and on 11.10.2018 filed First Progress Report as per Regulation 15(1)(a) of the Liquidation Regulations. The applicant regularly filed subsequent progress report(s) with respect to liquidation process of the corporate debtor at the end of every quarter as per Regulation 15(1)(b) of the Liquidation Regulations.

(v) Further the liquidation process was to be completed within the period of two years (prior to amendment) as per Regulation 44(1) of Liquidation Regulations, which was subsequently amended to one year w.e.f. 25.07.201. However, due to pending realization and awaiting IT refund amounting to Rs.25.05 lakh from the Income Tax

Department, the liquidation process could not be completed within the specified time limit and therefore, on an application filed by the applicant for extension of time limit the Adjudicating Authority vide its order dated 23.01.2020, 15.10.2020 & 09.04.2021, granted extension of six months respectively from the date of the order to complete the proceeding of liquidation of the corporate debtor.

(vi) The liquidator realized the amount from the assets of the corporate debtor and received the refund from the Income Tax Department on 29.09.2021 amounting to Rs.25,05,800/- plus interest as per the provisions of the Income Tax Act, 1961.

(vii) The assets of the corporate debtor have been sold and disposed of and no assets remains pending to be disposed of and hence, the liquidation process of the said corporate debtor has been completed and the applicant has opened a new bank account with Kotak Mahindra Bank in the name of the corporate debtor in liquidation, in compliance with Regulation 45 of the Liquidation Regulations.

4. We have heard the Learned Counsel for the applicant and perused the material available on record. The Liquidator has filed the final report and Form-H dated 12.10.2021 in compliance with Regulation 45 of the Liquidation Regulations which contains the details of the Liquidation Process. However, in view of the clarification sought on 21.09.2022 the liquidator has placed on record detailed Final Report through its affidavit dated 18.10.2022. The fair value and liquidation value are Rs.8,90,42,915/- and Rs.7,71,00,000/- respectively.

The statement reflecting the receipts and payment made in the liquidation process is as under:

Receipts		Net Realized Value (Rs. in lacs)	Distribution/ Payment	Amount (Rs. in lacs)
Realisation from: Cash and Bank Balance of CD's Account Transfer From SBI Transfer From Indusind Bank Cash	 91.07 79.15 1.04	171.26	Distribution to stakeholders	1065.51
Rent Income Gross Amount of rent Less: TDS Deducted and Advance Tax Paid Net Amount Realised	 241.73 38.81	202.92	Refund of Security Deposits	151.61
Release of Security Deposit from Tata Power Limited		0.69	GST	2.50
Sale of property Gross Amount 1% TDS Deducted by Buyer	 735.00 7.35	727.65	Liquidation Exp.	80.02
Net Income Tax Refund Assessment Year 2020-21 2019-20 2018-19	 27.31 *33.75 0.72	61.78		
Recover of Loan and Advances from Bhatia Software & Realtors Private Limited		105.00		
Interest Income Interest on FD/Mutual Fund Units and Others		30.34		
TOTAL		**1299.64**		**1299.64**

**Refund amount of Rs.33.75 Lakh received for the AY-2019-20 includes amount of advance tax paid. Further, amount of income tax refund includes TDS deducted prior to*

Liquidation commencement date which was received as refund during liquidation period.

Since the liquidator has conducted and completed the liquidation process and disposed of the assets of the corporate debtor, there remains nothing in the corporate debtor. Hence, the corporate debtor is required to be dissolved under Section 54(2) of the Code.

5. Hence, by invoking the provisions of the Code and finding that the assets of the corporate debtor have been fully and completely liquidated, we pass the order of dissolution of the corporate debtor as under:

(i) The corporate debtor, BCC Estates Private Limited stands dissolved from the date of this order as per Section 54(2) of the Insolvency and Bankruptcy Code, 2016.

(ii) Copy of this order be sent/communicated to the Registrar of Companies, Gwalior, Madhya Pradesh within seven days from the date of this order for information and necessary action.

(iii) With the above directions IA/217(MP)2021 in TP 242 of 2019 [CP(IB) 80 & 81 of 2017] stands disposed of.

-sd-	-sd-
Kaushalendra Kumar Singh	**Dr.Madan B. Gosavi**
Member (Technical)	**Member (Judicial)**

Swati