

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT - II**

**IA No. 1819 of 2022  
IN  
CP (IB) No. 16 of 2018**

Under Section 54 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules 2016.

**Mr. Atul Jain,  
Liquidator of Dharam Paul Metal  
Private Limited**

Having address at: B Wing, 3<sup>rd</sup>  
Floor, Vaastu Darshan, Azad Road,  
Andheri East, Mumbai- 400 069.

.....Applicant

*In the matter of*

**Shree Sai Industries Private  
Limited**

... Operational Creditor  
Vs

**Dharam Paul Metal Private  
Limited**

... Corporate Debtor

**Order delivered on: 29.07.2022**

***Coram:***

**Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)**

**Hon'ble Member (Technical) : Mr. Shyam Babu Gautam**

***Appearances:***

For the Applicant : Mr. Aniruth Purushothaman G, Advocate.  
Liquidator in person : Mr. Atul Jain

**ORDER**

*Per: Justice P.N. Deshmukh, Member Judicial*

1. This is an Application filed by Mr. Atul Jain, the Liquidator of the Corporate Debtor under Section 54 of the Insolvency & Bankruptcy Code, 2016 (hereinafter called “the Code”) seeking dissolution of the Corporate Debtor.
2. On perusal of this Application, it is evident that the **Company Petition No. 16 of 2018** filed by the Operational Creditor under Section 9 of the Code was admitted by this Tribunal vide an Order dated 15<sup>th</sup> October 2018 and subsequently Ms. Dipti Mehta was appointed as the Interim Resolution Professional (IRP). A Public Announcement dated 30<sup>th</sup> October 2018 in Form A pursuant to Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter called “Regulations”) was made by the IRP in Free Press Journal and Navshakti (Mumbai edition) and Silvassa Mirror and Janadesh (Silvassa edition). The Committee of Creditors (CoC) was constituted post which a total of three meetings were held in the course of the CIRP.
3. Pursuant to the approval of the CoC in its **First Meeting held on 27<sup>th</sup> November 2018**, Mr. Ajay Kumar was appointed as Resolution Professional (RP) of the Corporate Debtor vide Order dated 22<sup>nd</sup> January 2019. Kotak Mahindra Bank was the sole member of the CoC of the Corporate Debtor and pursuant to the **Second Meeting**

**held on 13<sup>th</sup> February 2019**, Lakshmi Vilas Bank also submitted a claim of Rs. 24,01,34,127.80/- as a secured Financial Creditor. Subsequently, in the **Third Meeting held on 5<sup>th</sup> April 2019**, Lakshmi Vilas Bank was added as a member of the CoC of the Corporate Debtor. The revised list of members of the CoC and a summary of their claims is reproduced below:

<b>Sr. no.</b>	<b>Name of Creditors</b>	<b>Amount claimed (in Rs.)</b>	<b>Security Interest, if any</b>
1.	Kotak Mahindra Bank Ltd.	2,10,50,863.78/- (Two Crore Ten Lakh Fifty Thousand Eight Hundred Sixty-Three and Seventy-Eight Paise Only)	Mortgage of a property standing in the name of third parties who are the guarantors cum mortgagors to the term loan granted to the Corporate Debtor.
2.	Lakshmi Vilas Bank Ltd.	24,01,34,127.80/- (Twenty-Four Crores One Lakh Thirty-Four Thousand One Hundred Twenty-Seven and Eighty Paise Only)	Primary Security: Hypothecation of stock of iron and steel products available in their business premises and book debt arising out of genuine trade transactions.

4. Additionally, taking due notice of the unviability of the Corporate Debtor, the CoC passed a Resolution in the Third Meeting to liquidate the Corporate Debtor under Section 33 of the Code and pursuant to **Order of this Tribunal dated 20<sup>th</sup> May 2019**, the **Liquidation of the Corporate Debtor commenced** and the RP was appointed as the Liquidator. As the RP was unwilling to continue as the Liquidator, the Liquidator filed an Application against the Order appointing him and consequently, the present Applicant, Mr. Atul Jain, was appointed as the Liquidator vide Order dated 1<sup>st</sup> October 2019, copies of which are duly attached to this Application.
5. The Applicant made a Public announcement dated 30<sup>th</sup> October 2019 in Form B under Regulation 12 of the Regulations in the Free Press Journal (English) and Navshakti (Marathi) calling upon the stakeholders of the Corporate Debtor to file their claims along with the requisite proof thereof. The Financial Creditors and the suspended Directors of the Corporate Debtor were also informed of the same by the Applicant. Since no information about the affairs of the Corporate Debtor was received from the suspended Directors, the Applicant was unable to appoint valuers for the Corporate Debtor.
6. The Applicant thereafter submitted the 1<sup>st</sup> Progress Report dated 21<sup>st</sup> November 2019 and a Report dated 9<sup>th</sup> December 2019 to this Tribunal certifying the constitution of the **Stakeholders Consultation Committee (SCC)** having the following voting share:

Sr. No.	Name of the Stakeholders	Voting %
1.	Lakshmi Vilas Bank Limited	92.26%
2.	Kotak Mahindra Bank Limited	7.74%
<b>Total</b>		<b>100.00%</b>

Despite paucity of information related to the Corporate Debtor due to non-cooperation by the Suspended Directors, the Applicant filed a Preliminary Report and an Assets Memorandum dated 13<sup>th</sup> February 2020 with this Tribunal, copies of which have been annexed to this Application.

7. A total of three meetings of the SCC were held and the minutes of the same are duly annexed to this Application. In the **First Meeting of SCC held on 27<sup>th</sup> December 2019**, the Applicant, *inter alia*, informed the SCC that a criminal complaint had been lodged at Pydhonie Police Station against the Suspended Directors alleging non-cooperation by them. In the **Second Meeting of the SCC held on 27<sup>th</sup> September 2021**, it was informed by the Applicant that the promoters of the Corporate Debtor were still absconding and that this Tribunal had passed an Order for exclusion of certain time period in the Liquidation process. In the **Third Meeting of the SCC held on 14<sup>th</sup> February 2022**, since there was no development in the police complaint filed by the Applicant and the erstwhile promoters of the Corporate Debtor were untraceable, the members of the SCC agreed to authorize the Applicant to file an Application for the dissolution of the Corporate Debtor under Section 54 of the Code.

8. The Applicant further submits that a total of **Eleven (11) Progress Reports** were filed in the matter of the Corporate Debtor, copies of which are attached to this Application. The **Final Report** pertaining to the Dissolution of the Corporate Debtor dated 27<sup>th</sup> June 2022 was sent to the IBBI and a copy of Form GNL-2 are duly attached to this Application. A copy of the **Bank Statement of the Liquidation Account** of the Corporate Debtor from 20<sup>th</sup> November 2019 to 28<sup>th</sup> March 2022 has been attached to this Application. Further, it is submitted that since there were no transactions in the Liquidation account of the Corporate Debtor, the account was declared “Dormant” by the Central Bank of India and the same was later closed. A sum of **Rs. 1,15,325/-** was received from DBS Bank (erstwhile Lakshmi Vilas Bank) on 18<sup>th</sup> March 2022 in the personal account of the Applicant as contribution towards the expenses made in the liquidation of Corporate Debtor.

### FINDINGS

9. On examining the submissions made by the Applicant and the documents annexed to the Application, it appears that the affairs of the Corporate Debtor have been wound up and its assets have been completely liquidated. We note that the erstwhile promoters and Suspended Directors of the Corporate Debtor had absconded and as a consequence of this, the process of liquidation of the Corporate Debtor was inordinately delayed. Hence, we are of the view that the

period of 137 days between 19<sup>th</sup> February 2022 to 5<sup>th</sup> July 2022 shall be excluded from the period of Liquidation of the Corporate Debtor.

10. We are satisfied from the documents on record that the liquidation is not with intent to defraud any person. The bank account for the purpose of liquidation has been closed. The above facts and circumstances indicate that due process of liquidation, as per extant provisions and in the manner indicated in the Code and Regulations, have been followed by the Liquidator to liquidate the assets of Company. The liquidation process has been duly completed as per the provisions of the Code. Thus, it would be just and equitable for this Tribunal to dissolve the Corporate Debtor. No party is going to be adversely affected thereby.
11. In view of the above the Corporate Debtor deserves to be dissolved. Hence ordered.

### **ORDER**

The Application be and the same is allowed as follows:

- a. Dharam Paul Metal Private Limited, the Corporate Debtor, is hereby dissolved with immediate effect.
- b. The Registry is directed to forward a certified copy of this order to the Registrar of Companies concerned, within a period of seven days for necessary action.
- c. The Liquidator of Dharam Paul Metal Private Limited is discharged.

d. The present IA No. 1819 of 2022 is thus allowed and disposed of and CP (IB) No. 16 of 2018 stands closed.

**Sd/-**

**SHYAM BABU GAUTAM  
MEMBER (TECHNICAL)**

**Sd/-**

**JUSTICE P.N. DESHMUKH  
MEMBER (JUDICIAL)**

AN  
29.07.2022