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

IA No.298/2022 & 411/2022
in
CP (IB) No.73/Chd/CHD/2018
(admitted)

<u>In the matter of:</u>

ICICI Bank Limited ….Petitioner-Financial Creditor
Versus

M/s Lakshmi Energy & Foods Ltd. ….Respondent-Corporate Debtor

And in the matter of:-
<u>IA No.298/2022</u> **Under Section 60(5) of the IBC, 2016**
Balbir Singh Uppal, Promoter Shareholder
And Erstwhile Managing Director of
M/s Lakshmi Energy and Foods Limited …Applicant
Vs.
Kuldip Kumar Bassi, Liquidator
of M/s Lakshmi Energy and Foods Limited ….Respondent

And in the matter of:-
<u>IA No.411/2022</u> **Under Section 60(5) of the IBC, 2016**
Kuldip Kumar Bassi, Liquidator
of M/s Lakshmi Energy and Foods Limited ….Applicant

Order delivered on: 07.07.2022

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

<u>Present through video-conferencing:</u>

For the Applicant in IA No.298/2022 : 1. Mr. Anand Chhibbar, Senior Advocate
2. Mr. Shikhar Sarin, Advocate

For the Respondent in IA No.298/2022 an : Ms. Pooja Mahajan, Advocate

For the Applicant-Liquidator in IA No.411/2022 : Ms. Pooja Mahajan, Advocate

Per: Subrata Kumar Dash, Member (Technical)

ORDER

IA No.298/2022 is filed by the Suspended Board of Director and Promoter of the Corporate Debtor i.e. M/s Lakshmi Energy and Foods Limited, with a prayer to remove the Liquidator-Shri Kuldip Kumar Bassi, and IA No.411/2022 is filed by the Liquidator-Shri Kuldip Kumar Bassi seeking permission from this Adjudicating Authority for release from the position of the Liquidator of the Corporate Debtor and consequent discharge of his duties. These IAs being interlinked, are taken up together for orders.

IA No.298/2022

The facts as mentioned in the application are as under:-

2. It is stated that the Liquidator-Shri Kuldip Kumar Bassi had applied for a new GST number in the name of the applicant despite the fact that the present applicant stood suspended from the Board of the Corporate Debtor after the initiation of Corporate Insolvency Resolution Process on 03.09.2019. It is further stated that the respondent projected himself to be an authorised representative of the present applicant and has wrongly shown the present applicant as the Managing Director of the corporate debtor in the said application. It is further stated that an FIR was registered against the Liquidator on 18.03.2022 on the basis of the complaint from the present applicant that the respondent impersonated him and tried to obtain a GST number by misrepresenting and playing fraud by using the applicant's personal

confidential numbers. It is further stated that this fact of filing FIR has been withheld from this Adjudicating Authority by the respondent-Liquidator.

3. The respondent-Liquidator in his reply filed by Diary No.00737/1 dated 06.05.2022 has clarified that this application has been filed to scuttle the liquidation process and centres around an application before the GST Department filed nearly 2 years back. It is also stated that the learned Additional Sessions Judge, Fatehgarh Sahib has granted anticipatory bail to the respondent. In the name of the corporate debtor in his bail order and has also noticed the provisions of Section 233 of the I&B Code which provides statutory protection for action taken by the Liquidator in good faith and the order dated 02.03.2022 of the Hon'ble Supreme Court in ***Jaypee Kensignton Boulevard Apartments Welfare Association & Ors. V. NBCC (India) Ltd. & Ors. Civil Appeal No.3395 of 2020.***

4. Subsequently, rejoinder has also been filed by Diary No.00737/2 dated 09.05.2022 by the applicant where mostly repeating his earlier accusations.

5. Considering the fact that the Liquidator himself has expressed his inability to continue as a Liquidator in his application IA No.411/2022 before this Adjudicating Authority, the present application for removal of the respondent-Liquidator from acting as Liquidator of Company is allowed. It is, however, clarified that we are not in any way expressing an opinion on the allegations made by the applicant against the liquidator in the present application while allowing this prayer.

6. Accordingly, IA No.298/2022 stands allowed and disposed of.

IA No.411/2022

The applicant-Liquidator has stated that there has been consistent of non-cooperation by the erstwhile Promoter and this is delayed the liquidation proceedings. It is also stated that he is the senior citizen suffering from various ailments and a copy of the medical report in this regard has also been attached as Annexure-6 to the application.

2. In view of this, the applicant-Liquidator has expressed his inability to continue as a Liquidator of the corporate debtor any further. Keeping in view the above mentioned facts and circumstances, the ends of justice would be met, if the applicant Kuldip kumar Bassi, Insolvency Professional, appointed as Liquidator in this case, is replaced. Since no liquidator has been proposed, consequently we appoint Mr. Mohit Chawla, having Registration No. IBBI/IPA-001/IP-P00524/2017-2018/10949,E-mail: ipservices@embeegroup.in Mobile No. 9888003303 as the Liquidator. The Law Research Associate of this Tribunal has checked the credentials of Mr. Mohit Chawla, and nothing adverse has been found on record.

3. Considering the facts and the circumstances, the applicant's prayer made in the application for discharging him from the position and duties of the corporate debtor is hereby allowed. Accordingly, IA No.411/2022 stand allowed and disposed of with the following directions:

a. Mr. Kuldip Kumar Bassi, Liquidator, shall hand over the entire record and the assets of the of the corporate debtor, if any, in his possession to the newly appointed liquidator immediately;

b. Mr. Mohit chawla shall take over the charge of the entire records and assets of the corporate debtor and perform his duties, as required under the Code and the Regulations;

c. Mr. Mohit Chawla, is directed to file his written consent along with affidavit within 7 days, stating therein that no disciplinary proceedings have been initiated against him by the Board or the Insolvency Professional Agency;

d. Mr. Mohit Chawla, Liquidator, is directed to file quarterly progress reports highlighting issues, if any, delaying the Liquidation Process before this Tribunal.

4. Registry is directed to supply a copy of this order to the learned counsel for the applicant and newly appointed Liquidator.

Sd/-	Sd/-
(Subrata Kumar Dash)	(Harnam Singh Thakur)
Member (Technical)	Member (Judicial)

July 07, 2022

AV