IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-V

I.A./3344/ND/2023
IN
CP IB/519/PB/2017

(Under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.)

IN THE MATTER OF:

GLOBE EXPRESS SERVICES PRIVATE LIMITED

...Operational Creditor

Versus

M/s AGI CARGO PRIVATE LIMITED

...Corporate Debtor

AND IN THE MATTER OF

MOHD. NAZIM KHAN, LIQUIDATOR
AGI CARGO PRIVATE LIMITED **... Applicant**

Order Delivered on: 17.01.2024

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Liquidator: Mr. Mohd. Nazim Khan, Adv.

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. The instant application is filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 ("Code") read with regulation 45(3) of the Insolvency and Bankruptcy Board of India [Liquidation Process] Regulations, 2016 ("Liquidation Process Regulations") by Mr. Mohd. Nazim Khan ("Liquidator"/Applicant") of M/s AGI Cargo Private Limited (CIN: U 63000DL2011PTC223809) ("Corporate "Debtor") praying for dissolution of the Corporate Debtor under Section 54 of the Code, 2016.
2. The facts giving rise to filing of the instant application as stated by the Applicant are narrated hereunder: -
   a) The applicant submits that M/s Globe Express Services Private Limited ('Operational Creditor') had filed petition i.e., IB/519/PB/2017 under Section 9 of the Code, 2016 for initiating Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and the petition was admitted by this Adjudicating Authority vide order dated 12.10.2018, consequently CIRP was initiated against the Corporate Debtor.
   b) The AGI Cargo Private Limited (Corporate Debtor) is a Private Company incorporated on 17.08.2011 and it is registered with the Registrar of Companies, Delhi and this Adjudicating Authority vide order dated 16.07.2019 appointed Mr. Mohd. Nazim Khan as the Liquidator of the Corporate Debtor.
   c) In compliance of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 the liquidator makes a public announcement in Form-B of Schedule II in Financial Express, English Edition and in Jansatta, Hindi Edition on 05.08.2019. The last date for submitting the claim was 31.08.2019.
   d) In compliance of Regulation 31A of the Liquidation Process Regulations, 2016, the Applicant Liquidator constituted a Stakeholders' Consultation Committee on 27.09.2019 within sixty days

from the Liquidation Commencement Date. Further, the Liquidator filed the Preliminary report, List of stakeholders and Asset Memorandum before this Adjudicating Authority on 27.09.2019.

e) The Liquidator had filed the application under Regulation 33(2)(d) of IBBI (Liquidation Process) Regulations, 2016 before this Adjudicating Authority on dated 18.09.2019, for seeking approval for Private Sale of Assets in the Process of Liquidation having CA-1898(PB)/2019. This Adjudicating Authority vide its order dated 24.09.2019 has approved the private sale of assets of AGI Cargo Private Limited. Thereafter, the Liquidator sold the scrap items by private sale method vide the agreement dated 13.11.2019 with Mr. Jaswinder Singh.

f) This Adjudicating Authority vide its order dated 10.03.2023 directed that the cost of the Liquidation/CIRP would be settled in terms of Regulation 4 of IBBI (Liquidation Process) Regulations, 2016 read with Regulations 33 and 34(B) and 39(D) of IBBI (IRCP), Regulations, 2016.

g) The Respondents in the main petition has paid the CIRP cost towards full and final settlement on 29.04.2023.

h) The receipt and payment along with audit certificate issued by M/s Tiwari and Mishra, Chartered Accountants pursuant to Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 for the following periods are as under:

Financial Year	**Audit Certificate along receipt and payment dated**
16.07.2019 to 31.03.2020	07.04.2020
01.04.2020 to 31.03.2021	07.04.2021
01.04.2021 to 31.03.2022	13.04.2022
01.04.2022 to 31.03.2023	14.04.2023
01.04.2023 to 12.06.2023	13.06.2023

i) The liquidator had withdrawn the balance amount of Rs.7,61,817.07 (Seven lakh sixty-one thousand eight hundred seventeen and seven paise) through RTGS having UTR number CBINR52023060910010499 from the Liquidation Bank Account of the Corporate Debtor bearing Account No. 3570815762 maintained by the Liquidator in Central Bank of India on 09.06.2023 and further issued the request letter to bank on 12.06.2023 to close the Bank Account of the Liquidation of the Corporate Debtor maintained by the Liquidator.

j) The entire CIRP cost has been recovered by the Liquidator of the Corporate Debtor and the amount towards partial liquidation cost i.e. Rs.27,83,333 has been extinguished by the liquidator due to the agreement between the stakeholders about their unwillingness to pay the unpaid liquidation cost.

k) The Liquidation value of the Liquidation estate is NIL and the amount realised from sale of Liquidation estate is Rs. 16,08,732.08.

l) The Applicant submits that no amount was left after payment of CIRP cost and partial payment of liquidation cost pursuant to the provisions of Section 53 of IBC,2016. Therefore, the claims of all stakeholders on the Corporate Debtor shall stand extinguished. The Liquidator issued letter on 14.06.2023 to the Stakeholders for extinguishment of liabilities in respect of claims against the Corporate Debtor. The amount distributed to stakeholders as per Section 52 or 53 of the Code are as under:

(Amount in Rs. lakh)

Sl. No.	Stakeholders* under section 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a): CIRP Costs	11,62,288	11,62,288	11,62,288	100%	Entire CIRP cost has been borne by the COC members in proportion to their voting rights.
2	(a): Liquidation Costs**	43,86,739	43,86,739	16,08,732.08[1]	36.67%	Remaining amount i.e. Rs. 27,83,333 has been extinguished by the liquidator.

	(b)(i) Workmen Dues	NIL	NIL	NIL	NIL	NIL
	(c)Employees	NIL	NIL	NIL	NIL	NIL
	(d)Financial Debt owed to Unsecured Creditors	NIL	NIL	NIL	NIL	NIL
	(e)(i) Govt Dues	NIL	NIL	NIL	NIL	NIL
	(f)Operational Dues (a)Globe Express Services Pvt Ltd	29,35,156.62	29,35,156.62 4	NIL	NIL	Entire Claim has been extinguished as no such amount was left after payment of Liquidation Cost.
	(b)Toll Global Forwarding (India) Private Limited	90,66,106.16	52,70,940.16	NIL	NIL	Entire Claim has been extinguished as no such amount was left after payment of Liquidation Cost.
	(f) Any other	NIL	NIL	NIL	NIL	NIL
	Total	**43,86,739**	**43,86,739**	**16,08,732.08**[2]	**36.67%**	

3. We have gone through the present Application filed by the Liquidator praying for closure of liquidation process and dissolution of the Corporate Debtor and in terms of Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. We have heard the Ld. Counsel appearing on behalf of the Liquidator and have carefully gone through the contents of the present petition.
4. The Applicant has filed the Final Report dated 19.06.2023 and also filed the Compliance Certificate in Form-H as required by Regulation 45(3) of IBBI (Liquidation Process) Regulations, 2016,

5. The Liquidation process has been conducted as per the timeline indicated in Regulation 47 details of which has been given in Form-H accompanied with this application.
6. As submitted by the Applicant there is no litigation pending against the Corporate Debtor to the best of knowledge, belief and effort of the Liquidator.
7. The Applicant has also submitted that no application on PFUE Transactions is pending.
8. In view of the facts and circumstances, it emerges that all the assets of the Corporate Debtor have been completely liquidated and/or distributed to stakeholders as the provisions of law and there is nothing left to be further liquidated.
9. We have duly considered the merits thereof, in the light of the statutory provision of Section 54 of IBC, 2016 and Regulation 45 IBBI (Liquidation Process) Regulations, 2016. For the sake of convenience, the relevant provisions of Section 54 of IBC, 2016 and Regulation 45 IBBI (Liquidation Process) Regulations, 2016, are being reproduced herein below: -

> ***"Section 54 IBC-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."*
>
> **"IBBI (Liquidation Process) Regulations, 2016**
> **45. Final report prior to dissolution.**
> *1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor's assets have been liquidated.*

(2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.

(3) The liquidator shall submit an application along with the final report and the compliance certificate in Form H to the Adjudicating Authority for –

(a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or

(b) for the dissolution of the corporate debtor, in cases not covered under clause (a).”

10. Upon the perusal of the averments made in the application along with the perusal of the final report and the compliance certificate filed in Form-H of the petition, we observe that all the reports required to be filed under Regulation 5 of the Liquidation Regulations, 2016 has been filed. Further, the only assets belonged to the Corporate Debtor were scrap items which were sold by way of Private sale as per the approval received by this Adjudicating Authority vide order dated 24.09.2019 and the scrap items were sold vide agreement dated 13.11.2019. Therefore, it appears that affairs of the Corporate Debtor have been completely wound up and its assets have been completely liquidated.
11. In view of the above facts and circumstances, there is no legal impediment to the Corporate Debtor being dissolved. Accordingly**, I.A. No. 3344/ND/2023** in **C.P. IB/519/PB/2017 stands allowed** and the Corporate Debtor i.e., M/s AGI Cargo Private Limited (CIN: U63000DL2011PTC223809) **is ordered to be dissolved with the immediate effect.**
12. The Liquidator is directed to serve a copy of this order upon the Registrar of Companies, NCT of Delhi & Haryana and the Insolvency and Bankruptcy Board of India, 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.

13. The Liquidator shall stand discharged from his responsibilities, subject to completion of procedural compliances, if any.

14. The Registry is directed to send e-mail copies of the order forthwith to all the parties for information and for taking necessary steps.

File be consigned to the record.

Sd/-	**Sd/-**
(DR. SANJEEV RANJAN)	**(MAHENDRA KHANDELWAL)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**