



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

I.A.No.327/2023

U/s.54 of the I&B Code, 2016 r/w

Regulation 45 of IBBI (Liquidation Process) Regulations 2016

C.P. (IB) No.112/BB/2021

U/s.9 of IBC, 2016

R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of:

Mr. Sushanta Kumar Choudhury,

Liquidator of East Mond Infra and Trade Private Limited,

64, Hem Chandra Naskar Road,

Belegkata, Kolkata – 700010,

West Bengal.

... Applicant/Liquidator

Order delivered on: 8th September, 2023

Coram: 1. Hon'ble Justice (Retd.) T Krishnavalli, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Present:

For the Applicant : Shri Narayana Kamma

ORDER

Per: T Krishnavalli, Member (Judicial)

1. The present application is filed on 09.05.2023 by Shri Sushanta Kumar Choudhury, Liquidator of M/s. East Mond Infra & Trade Private Limited (Applicant/Liquidator), U/s.54 of the I&B Code, 2016 r/w Rule 11 of the NCLT Rules, 2016 r/w Regulation 45 of the IBBI (Liquidation Process) Regulation 2016 for dissolution of the Corporate Debtor and other necessary orders as may be deemed fit in the matter.



2. Brief facts of the instant Application, which are relevant to the issue in question, are as follows:

- (1) The Adjudicating Authority, vide its order dated 05.01.2022 initiated Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor by appointing Shri Nitin Daga as IRP, imposing moratorium etc. Further, the Committee of Creditors (COC) at its first meeting held on 02.02.2022 elected to appoint Mr. Sushanta Kumar Choudhury, the Applicant herein, as the Resolution Professional of the Corporate Debtor. Accordingly, this Tribunal Vide Order dated 21.03.2022 appointed the Applicant as RP. Subsequently, the RP made a public announcement inviting Expression of Interest, but it did not yield any result. The CoC observed that there is no possibility of getting any resolution plan, therefore, the CoC decided for liquidation of the Corporate Debtor. Accordingly an application for liquidation of the Corporate Debtor was filed u/s 33 (2) of IBC 2016 and the liquidation order was passed vide order dated 29.09.2022.
- (2) It is stated that the Liquidator in compliance to Regulation 31 (2) of IBBI (Liquidation Process) Regulation 2016 has submitted the report to the Adjudicating Authority. Further, the unpaid CIRP costs, those were approved by the COC but could not be paid due to non-availability of fund, had been carried forward for disbursement during the liquidation period. The summary of the total claims received including unpaid CIRP costs and admitted is produced at Page-18 (Para-4) of the application.
- (3) The Liquidator in accordance to terms of Regulation 13 of the IBBI (Regulation Process) Regulations 2016 submitted the Preliminary report to the Adjudicating Authority (AA) which included Asset Memorandum, Capital Structure, proposed plan of actions etc., on 07.12.2022.
- (4) It is stated that the Liquidator conducted altogether 7 (seven) meetings of the Stakeholder's Consultation Committee (SCC) to consult and apprise the members about the progress of the liquidation process from time to time u/s 35 (2) r/w Regulation 8 of the IBBI (Liquidation Process) Regulation 2016 and also submitted the minutes of the meetings of each



meeting to the Adjudicating Authority within the due date. Further, the Liquidator has sent a letter to the ROC, Bengaluru updating the status of the Corporate Debtor who is undergoing liquidation process and the appointment of the undersigned as the Liquidator.

- (5) It is stated that in the 2nd meeting of the Stakeholders Consultation Committee (SCC), the Liquidator informed that the Corporate Debtor had only one class of assets i.e., Securities and Financial Assets (SFA) and same were got valued by two IBBI Registered Valuers during the CIRP period, since valuation was done within six months, it is not necessary for further valuation during the liquidation period and the members of the SCC also agreed to the proposal and advised the Liquidator to consider the valuation done during the CIRP period. The summary of fair and liquidation value submitted by the registered Valuers engaged during the CIRP period as under:

Sl. No.	Name of Valuers	Fair Value (Rs.)	Liquidation Value (Rs.)
1.	Valuer-1 (Anil Gupta)	13,16,04,600	1,24,34,121
2.	Valuer -2 (Pranab Chakrabarty)	13,01,69,550	1,24,76,256
3.	Total Value	26,17,74,150	2,49,10,377
4.	Average Value	13,08,87,075	1,24,55,189

- (6) The Liquidator further informed that the average liquidation value worked out to Rs.1,24,55,189/- which may be considered as the basis for sale of the business/assets of the Corporate Debtor during the Liquidation period. The members of the SCC accepted the proposal and advised the liquidator to publish the Sale cum Auction notice considering the reserve price as Rs.124,55,189/- and EMD of Rs.12,46,000/-. However, the 1st and 2nd Sale cum Auction notice remained unsuccessful. The 3rd advertisement was published on 21.01.2023 by reducing the reserve price and EMD by another 10% and two responses were received from the bidders namely (a) M/s. Winsure Supplier LLP; and (b) M/s. Rottex Commercial Private Limited. Thereafter, the public e-auction was successfully conducted on 13.02.2023 for the Sale of Assets of CD and



M/s. Winsure Suppliers emerged out as highest bidder with quoted price of Rs. 89.00 lakhs. The Sale Certificate was issued at the desire of M/s. Winsure Suppliers LLP, the successful bidder on 01.04.2023

- (7) The Liquidator made the distribution of the sale proceeds received from the sale of the Liquidation estate and other sources during the liquidation period in accordance with Section 53 of the IBC, 2016 as under:

Sl. No	Stakeholder* under Section 53 (1)	Amount Claimed	Amount admitted	Amount distributed	Amount distributed to the Amount claimed (%)	Remarks
	(2)	(3)	(4)	(5)	(6)	(7)
1.	(a): CIRP Costs	35,97,424	35,97,424	35,97,424	100	-
2.	(b): Liquidation Costs	31,58,365	31,58,365	31,58,365	100	-
3.	(b) (i) Operational Creditors	226,59,87,877	226,59,87,877	57,45,115	0.25	No tangible & recoverable assets
4.	(b)(ii)					
5.	(c)					
6.	(d)					
7.	(e)(i)					
8.	(e) (ii)					
9.	(f)					
10.	(g)					
11.	(h)					
	Total	227,27,43,666	227,27,43,666	1,25,00,904	0.55	

- (8) It is stated that the 2nd and final progress report pertains to the 4th Quarter of the Financial Year 2022-23 has submitted to the AA along with the audited Annual Receipts and Payments accounts for the financial year ending on 31.03.2023 in accordance with the provisions of Regulation 15 (5) of the IBBI (Liquidation Process) Regulation 2016.
- (9) The Liquidator after disbursement of all pending CIRP and Liquidation costs has distributed the surplus sale consideration/proceeds of the Liquidation estate among the stakeholders to make the bank balance zero (nil) and the same is also reflected in the final audited Receipts and Payments Accounts as well as Bank statement.
- (10) It is further stated that the Liquidator has taken necessary actions by conducting transaction audit during the CIRP period and it helped in detecting the avoidable transactions. Consequently, he had filed an



application before the AA in respect of the avoidance transactions for Rs.13,74,660/- that had occurred u/s 43 of the IBC 2016 during the last two years preceding the date of commencement of CIRP of the CD as reported by the Transaction Auditors in their report and the same was determined by the RP/Liquidator. Accordingly a sum of Rs.13,74,660/- have been recovered from the beneficiaries/related parties during the liquidation period. The proceeds were taken into the Liquidator Estate Account.

(11)The Liquidator/Applicant confirms that there is no legal case/litigation pending against the Directors of the Suspended Board of the CD which is pending for hearing and decision of the AA or any other higher court/appellate authority except a demand of Rs.52,66,328/- from the Service Tax Department, Government of India during 2014-15 and the same has been disputed by the CD and an appeal has also been preferred before the Hon'ble Customs, Excise and Service Appellate Tribunal on 04.03.2019. The Tribunal yet to hear the matter. Further, no claim has been received from the Department against the Public Announcement made in the newspaper on 08.01.2022 under Section 13 r/w Regulation 6 of the IBBI (CIRP) Regulation 2016.

(12)The Liquidator has submitted the Compliance Certificate in prescribed format (FORM-H) confirming compliance of all activities and providing details of information. Further, all the available assets which formed a part of the liquidation Estate have been sold out and distributed amongst the Stakeholders in accordance with the provisions of Section 53 of the IBC 2016. It is also confirmed that neither there is any unclaimed divided for deposit not any sale proceeds left out for distribution.

3. Heard the learned Counsel for the Applicant. We have carefully perused the pleadings of the Party along with extant provisions of the Code and the Regulations made thereunder.
4. From a perusal of the details narrated supra, it appears that the Liquidator has complied with all the conditions and procedural requirements, as specified



under various provisions of Section 54 of the Insolvency & Bankruptcy Code, 2016 and also the extant IBBI Regulations. We have also considered the manner in which the available assets have been dealt with prior to the dissolution of the Corporate Applicant. It is seen from the liquidator's statement that there is no realization of assets and no amount in the bank and the movable and immovable property are liquidated there is nothing left to be liquidated or distributed. In view of this factual matrix, we are of the view that the said I.A. No.327 of 2023 seeking dissolution of the Corporate Applicant deserves to be allowed, as prayed. As the I.A.No.327 of 2023 is disposed of allowing dissolution of the Corporate Applicant, consequently the C.P. (IB) No.112/BB/2021 also stands disposed of.

5. In the result, in exercise of the powers conferred on the Adjudicating Authority, under Section 54 of the Code, the Interim Application bearing **I.A.No.327of 2023 and C.P.(IB)No.112/BB/2021** is hereby disposed of with the following directions:

- (1) The Corporate Debtor, namely, **M/s. East Mond Infra and Trade Private Limited** is dissolved, with immediate effect;
- (2) The Registry is directed to forward a copy of this Order to the Registrar of Companies Karnataka, Bangalore, within a period of two weeks from the date of receipt of this order, for further necessary action as prescribed under Law;
- (3) The Ld. Liquidator is directed to forward copies of this Order to all other Statutory Authorities connected with the affairs of the Company, for further necessary action as prescribed under Law.
- (4) With this, the instant **I.A. No.327 of 2023**, and the Company Petition bearing **C.P. (IB)No.112/BB/2021** also stands **disposed of**.

Sd/-

**(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)**

Sd/-

**(T.KRISHNAVALLI)
MEMBER (JUDICIAL)**