

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

I.A. (IB) No. 08/CB/2021
Connected with
TP No. 107/CTB/2019
Arising out of
CP (IB) No. 776/KB/2018

CORAM: 1. Ms. Sucharitha R. (J)
2. Shri Satya Ranjan Prasad (T)

In the matter of:
INSOLVENCY AND BANKRUPTCY CODE, 2016.

In the matter of:
An application under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016.

-And-

In the Matter of:
M/s. Prem Industries, having its Registered Office situated at: B – 6, Industrial Estate, Rosa, Shahjahanpur, Uttar Pradesh – 242 406.

... .. Operational Creditor

-Versus-

In the Matter of:
M/s. S R Breweries Private Limited, having its Registered Office situated at: S – 3/53, Phase – II, New Industrial Estate Jagatpur, Cuttack, Odisha – 754 021.

... .. Corporate Debtor

-And-

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In the Matter of:

Mr. Niraj Agrawal, Liquidator having his office situated at: C/o M/s. H.K. Agrawal & Co., 125, Netaji Subhas Road, 5th Floor, Room No. 52, Kolkata – 700 001.

... .. **Applicant/Liquidator**

Counsels appeared for the Petitioner (s):

1. Mr. Rahul Parasram Puria, Adv.

Counsels appeared for the Respondent (s):

Date of pronouncement of Order: day of April, 2021.

ORDER

Per Ms. Sucharitha R., Member (J):

1. This application is filed by the **Mr. Niraj Agrawal**, Liquidator (hereinafter referred as “the Liquidator/applicant”) under Section 60 (5) of the Insolvency and Bankruptcy Code (hereinafter referred as “the Code”) read with Rule 11 of the National Company Law Tribunal Rules, 2016 seeking reliefs in this application are as under: -

“1. An order that for considering the timelines of Liquidation Process, in accordance with Regulation 47A of the Insolvency and Bankruptcy Board of

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India (Liquidation Process) Regulation, 2016, the lockdown period of 160 days starting from 25.03.2020 to 31.08.2020 be excluded pursuant to various orders of the Central and State Governments and Hon'ble NCLT exercising its jurisdiction provided under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016.

2. Interim and/or ad-interim orders in terms of prayers hereinabove.

3. That the instant application/petition is made bonafide and for the interest of justice."

2. The applicant submit that this Adjudicating Authority by Order dated 16.07.2019 had initiated the Liquidation Process against the Corporate Debtor and appointed Mr. Niraj Agrawal as the Liquidator. The Liquidation Period of one year had completed on 14.07.2020.

3. The applicant further submits that the Insolvency and Bankruptcy Board of India vide its Notification No. IBBI/2020-21/GN/REG060 dated


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20.04.2020 (w.e.f. 17.04.2020) introduced Regulation 47A in the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. According to which the period of lockdown shall not be counted for the purposes of computation of time-line of any task that could not be completed due to such lock down in relation to any liquidation Process. Therefore, the period of 160 days starting from 25.03.2020 to 31.08.2020 shall be treated as period of lockdown and to exclude for the purpose of counting of the period of Liquidation Process. As a result, the revised one-year period by excluding the lockdown period is 08.02.2021.

4. In view of the above Regulation as stated above, the lockdown period of 160 days starting from 25.03.2020 to 31.08.2020 imposed by the Central Government in the wake of COVID – 19 outbreak is excluded. The revised one-year period excluding the lockdown period will end on 08.02.2021.

5. Accordingly, IA (IB) No. 08/CB/2021 connected with TP No. 107/CTB/2019 arising out of CP (IB) No. 776/KB/2018 is **ALLOWED**.


Shri Satya Ranjan Prasad
Member (T)


Ms. Sucharitha R.
Member (J)

Signed on this, the ...9... day of ~~April~~ June, 2021.

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IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

I.A. (IB) No. 15/CB/2021
Connected with
TP No. 107/CTB/2019
Arising out of
CP (IB) No. 776/KB/2018

CORAM: 1. Ms. Sucharitha R. (J)
2. Shri Satya Ranjan Prasad (T)

In the matter of:
INSOLVENCY AND BANKRUPTCY CODE, 2016.

In the matter of:
An application under Section 54 (1) of the Insolvency and Bankruptcy Code, 2016, read with IBBI (Liquidation Process) Regulations, 2016.

-And-

In the Matter of:
M/s. Prem Industries, having its Registered Office situated at: B – 6, Industrial Estate, Rosa, Shahjahanpur, Uttar Pradesh – 242 406.

... .. Operational Creditor

-Versus-

In the Matter of:
M/s. S R Breweries Private Limited, having its Registered Office situated at: S – 3/53, Phase – II, New Industrial Estate Jagatpur, Cuttack, Odisha – 754 021.

... .. Corporate Debtor

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In the Matter of:

Mr. Niraj Agrawal, Liquidator having his office situated at: C/o M/s. H.K. Agrawal & Co., 125, Netaji Subhas Road, 5th Floor, Room No. 52, Kolkata – 700 001.

... .. **Applicant/Liquidator**

Counsels appeared for the Petitioner (s):

1. Mr. Rahul Parasram Puria, Adv.

Counsels appeared for the Respondent (s):

Date of pronouncement of Order: day of April, 2021.

ORDER

Per Ms. Sucharitha R., Member (J):

1. This application is filed by the **Mr. Niraj Agrawal**, Liquidator (hereinafter referred as “the Liquidator/applicant”) under Section 54 (1) of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred as “the Code”) read with IBBI (Liquidation Process) Regulations, 2016 seeking reliefs in this application are as under: -

“i. To allow this application;

ii. This Hon’ble Tribunal may be pleased to declare closure of the Liquidation Process of the Corporate

Debtor and be pleased to pass appropriate orders/directions to Order dissolution of the Corporate Debtor i.e., S R Breweries Private Limited under Section 54 (2) of the Code;

iii. The Hon'ble Tribunal may be pleased to discharge the Liquidator from his duty as Liquidator of the Corporate Debtor;

iv. Any other Orders/Directions as deemed fit necessary by this Hon'ble Court in the interest of justice and equity."

2. The applicant submits that the Hon'ble Adjudicating Authority at Kolkata vide Order dated 03.12.2018 had ordered the commencement of Corporate Insolvency Resolution Process (hereinafter referred as "CIRP") against the Corporate Debtor and appointed Mr. Niraj Agarwal as Interim Resolution Professional. Since the commencement of CIRP, the Corporate Debtor was not having any business operation. The factory and other assets of the Corporate Debtor were sold by the bankers under SARFAESI Act prior to the commencement of CIRP. There were no employees/workers

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working for the Corporate Debtor. There was also no worthwhile asset of the Corporate Debtor. Hence, the Resolution Professional had not received any Expression of Interest or any Resolution Plan from any prospective Resolution Applicant. Hence, the applicant approached this Adjudicating Authority for initiation of Liquidation Process of the Corporate Debtor. After perusing all the facts and circumstances, this Adjudicating Authority vide Order dated 16.07.2019 had initiated the Liquidation Process against the Corporate Debtor and appointed the Resolution Professional as the Liquidator. Pursuant to the Order dated 16.07.2019 of this Adjudicating Authority, the applicant made the Public Announcement in Form B of Schedule II of the Liquidation Regulations inviting claims from all the stakeholders and regarding the liquidation of the Corporate Debtor on 19.07.2019 in two newspapers, namely, Orissa Post (English) and Pratidin (Odiya). The applicant has intimated the Registrar of Companies, Odisha about the commencement of the Liquidation Process of the Corporate Debtor by filing Form INC-28 through MCA portal on 14.08.2019.

3. Pursuant to the public announcement, the applicant received claims from five creditors. The total amount claimed by them is Rs. 39,09,58,761.95/- and the amount admitted by the applicant is Rs. 38,99,75,594.95/-. Again on 20.03.2020, the applicant received a claim from the Income-Tax Officer (TDS), Cuttack for Rs. 1,06,76,235/-. The

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applicant had rejected the claim as it was not submitted within the last date for submission of claim, no supporting document was provided.

4. As per Regulation 34 of the Liquidation Regulations, the applicant had prepared an Asset Memorandum and the same was submitted before this Adjudicating Authority on 27.09.2019. In compliance with Regulation 31 of the Liquidation Regulations, the applicant has submitted a category wise list of stakeholders along with details of each stakeholder i.e., secured or unsecured in respect of each claim before this Adjudicating Authority on 27.09.2019. The copy of the list of stake holders is annexed with this application and marked as "Annexure -C". As per Regulation 45 (3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the applicant has submitted the Compliance Certificate Form – H and the same is annexed with the application and marked as "Annexure -F". The applicant under Regulation 15 of the Liquidation Regulations, had filed six Progress Reports including the Final Progress Report on various dates. Further, in compliance with Regulation 13 of the Liquidation Regulations, a Preliminary Report was submitted on 27.09.2019 before the Adjudicating Authority. The applicant had opened an Escrow Current Account in the name of "S R Breweries Pvt. Ltd. in Liquidation" bearing A/c No. 022905001778 with Technopolis Branch,

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Kolkata of ICICI Bank Ltd. Copy of the Bank Statement of the aforesaid A/c No. is annexed with this application and marked as "Annexure – E".

5. The applicant states that the Bank of India one of the Financial Creditors had a security interest of a Jaguar car which the Bank had not relinquished and the same had confirmed by the Bank through E-mail. Hence, the car was sold to one Mr. Balu Sasmal for Rs. 14 lakhs in December, 2019 and the full amount was realized on 01.01.2020. The applicant states that during the Liquidation Process, he came to know that there was a Security Deposit with Central Electricity Supply Utility of Odisha (CESU) lying to the credit of the Corporate Debtor. Hence, the applicant perused the matter with Central Electricity Supply Utility of Odisha (CESU) and was finally successful in getting refund of the security deposit amounting to Rs. 11,95,656/-. The applicant further submits that he had distributed the amount realized on account of refund of Security Deposit by Central Electricity Supply Utility of Odisha (CESU). No other amount is available for distribution.

6. The applicant has submitted a Final Report dated 15.01.2021 along with this application in pursuance to Section 54 of the Code read with Regulation 45 of Liquidation Regulations explaining how the Liquidation Process was conducted by the Liquidator and how the assets of the Corporate Debtor have been liquidated. The audited receipts and payments

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account for the Liquidation Period has also been annexed to the Final Report. The copy of the 6th and Final Progress Report is annexed with this application and marked as "Annexure – G". Further, in the Final Report, the applicant stated the Suspended Management had filed an Annual Return/Annual Accounts of the Corporate Debtor up to the Financial Year 2013-14 with the Registrar of Companies and Income Tax Return up to the Financial Year 2018-19. As per the Final Report dated 15.01.2021, the assets of the Corporate Debtor have been realised in accordance with the provisions of the Code and Liquidation Regulations and the proceeds have been disbursed to the stakeholders.

7. Since, there are no assets for realisation the question of distribution to the stakeholders does not arise. Finally, the applicant/Liquidator filed this petition along with Final Report.

8. On the petition filed by the applicant/Liquidator under Section 54 (1) of the Code read with IBBI (Liquidation Process) Regulations, 2016 for dissolution of the Corporate Debtor. We have noticed that the affairs of the Corporate Debtor have been completely wound up and its assets are liquidated. Therefore, we hereby dissolve this Corporate Debtor directing the applicant/Liquidator to file this Order with Registrar of Companies, Odisha and IBBI within 14 days hereof.

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9. Accordingly, the IA (IB) No. 15/CB/2021 connected with TP No. 107/CTB/2019 arising out of CP (IB) No. 776/KB/2018 is **ALLOWED**.

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Shri Satya Ranjan Prasad
Member (T)

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Ms. Sucharitha R.
Member (J)

Signed on this, the⁹..... day of ~~April~~^{June}, 2021.

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