

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



I.A. No.419 of 2023
U/s 54 of the IBC, 2016
R/w Regulation 45 of the IBBI
(Liquidation Process) Regulation, 2016
&
(T.P. No.88/2017) in C.P. No.235/2017
U/s 433 (e), (f), 434 & 439 of
the Companies Act, 1956 &
Section 8 & 9 of the IBC, 2016

In the matter of:

Mr. Shivadutt Bannanje

Liquidator of Concur Marketing Pvt. Ltd.

N-705, North Block, Manipal Centre,

No.47, Dickenson Road,

Bangalore - 560 042.

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Applicant

Order delivered on: 31.10.2023

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

Parties/Counsels Present:

For the Applicant : Shri Raghuram Cadambi

ORDER

Per: T. Krishnavalli, Member (Judicial)

1. The instant Company Petition is filed on 02.06.2023 by Shri Shivadutt Bannanje, Liquidator of Concur Marketing Pvt. Ltd. ('Applicant'), under Section 54 of the Insolvency and Bankruptcy Code, 2016, R/w Regulation 45 of the IBBI (Liquidation Process) Regulations, 2016 by *inter alia* seeking to pass an order declaring that the Corporate Debtor, namely, M/s. Concur Marketing Pvt. Ltd.



stands dissolved in terms of Section 54(2) of the IBC and to pass an order discharging the Liquidator, namely, Mr. Shivadutt Bannanje, from his duties and responsibilities as the Liquidator of the Corporate Debtor from the date of dissolution.

2. Brief facts of the instant Application, which are relevant to the issue in question, are as follows:
 - i. C.P. No.235 of 2017 was originally filed before the Hon'ble High Court of Karnataka, under Section 433(e) and 433(f), R/w Section 434 and 439 of the Companies Act, 1956 seeking winding up of the Corporate Debtor, namely, M/s Concur Marketing Pvt. Ltd. Subsequently, the matter was transferred to this Adjudicating Authority and renumbered as T.P. No.88 of 2017. The Petition was then taken up by this Adjudicating Authority under the provisions (specifically Sections 8 and 9) of the IBC, 2016.
 - ii. The said Petition was admitted by this Adjudicating Authority and CIRP was order to be commenced vide an order dated 02.03.2018. Shri R.L. Bhatia was appointed as the IRP and consequently the Applicant herein was appointed as the RP. During the CIRP, no resolution plan or even an expression of interest was received from any prospective resolution applicant; accordingly, the CoC resolved to proceed for liquidation of the Corporate Debtor. Consequently, as resolved by the CoC, the Applicant filed an Application bearing I.A. No.382 of 2018 seeking initiation of liquidation process of the Corporate Debtor. The said application was admitted and liquidation of the Corporate Debtor was ordered to be commenced vide an order dated 11.03.2019 passed by this Adjudicating Authority. By way of the same order, the Applicant was appointed as the Liquidator of the Corporate Debtor. In furtherance to the said order, the Applicant discharged various duties as per provisions of the IBC, 2016 and the IBBI (Liquidation Process) Regulations, 2016.
 - iii. It is stated that as mandated by the Regulations, the Applicant issued a public announcement in prescribed 'Form B' in the newspapers - Financial

Express (English) and Kannada Prabha (Kannada) on 14.03.2019, inviting claims from the creditors and stakeholders of the Corporate Debtor. The last date for submission of claims together with proof was 09.04.2019. On receipt of the claims from various stakeholders of the Corporate Debtor, the Applicant verified the same and admitted the claims of the creditors and stakeholders in accordance with the provisions of the Code and the Regulations.

- iv. Further the Applicant took charged of the assets of the Corporate Debtor namely land and building situated at No. B-208, 6th Main Road, D Devaraj Urs Truck Terminal Ltd. Industrial Suburb II Stage, Yeshwanthapura, Bangalore and spare automobile parts and loose furniture.
- v. The Applicant had appointed two Valuers during the CIRP period, for determining the fair value and liquidation value of the Corporate Debtor. Since the period between the valuation report date and the liquidation commencement of the Corporate Debtor was less than six months, the Applicant considered the valuation reports received during the CIRP. The fair value and liquidation value determined by the Valuers, are produced as follows:

Description of Assets	Name of the Valuer	Liquidation Value	Fair Value
Land & Building	CM Harikumar	95,00,000	1,81,61,000
	Kumar and Associates	95,16,800	1,18,76,000
Average Valuation of Land and Building		95,08,400	1,18,68,500
Scrap Assets & Loose Furniture	CM Harikumar	4,00,000	--
	Kumar and Associates	4,00,000	--
Average Valuation of Scrap Assets & Loose Furniture		4,00,000	--



- vi. On account of time lost due to the pandemic, the Applicant filed Applications bearing I.A. Nos.72 & 202 of 2021 seeking exclusion of 120 & extension of 180 days from the liquidation process and the same were allowed by this Adjudicating Authority vide order dated 18.03.2021 & 06.08.2021.
- vii. The Liquidator has conducted a total of six e-auctions on various dates. During the fourth e-auction conducted on 28.08.2021, it is observed that a sole bid from a bidder, Smt. Yashoda H., in respect of 'Lot 1' comprising Land and Building of the Corporate Debtor for the bid amount of Rs.74,00,000/- was received. Further, during the sixth e-auction conducted on 15.12.2021, a sole bid from the successful bidder, namely, M/s. Phoenix Enterprises for the bid amount of Rs.2,19,000/- in respect of the only remaining lot, comprising spare automobile parts and loose furniture was received.
- viii. Since the extended liquidation period was coming to an end on 07.01.2022 and the Applicant was yet to receive the balance sale consideration from the bidder, namely, M/s. Phoenix Enterprises; the Applicant has filed another Application bearing I.A. No.8 of 2022, seeking extension of the liquidation period by 90 days and the same was allowed by this Adjudicating Authority vide order dated 07.03.2022.
- ix. During the course of liquidation proceedings, the Applicant has realized the following sums from the sale of Assets, forming part of liquidation estate of the Corporate Debtor:

Description of Asset Sold	Successful Bidder	Amount Realized (in INR)
Land and Building	Smt. Yashoda H.	74,00,330
Spare automobile parts and loose furniture	M/s. Phoenix Enterprises	2,20,101
Sum total of proceeds realized from sale of Corporate Debtor's assets		76,20,431



- x. It is also stated that the Applicant has distributed the liquidation sale proceeds to the stakeholders eligible to receive the sale proceeds as per Section 53 of the Code, after deducting the costs incurred towards insolvency resolution process and liquidation process of the Corporate Debtor. After the disbursement had been made by the Applicant on 04.12.2021 an Application bearing I.A. No.78 of 2022 filed by an Operational Creditor, namely, Assistant Commissioner of Commercial Taxes (Audit) seeking for condonation of delay of 952 days in submission of claim before the Applicant and the same was disposed of by this Adjudicating Authority directing the Applicant herein to consider the claim of the aforesaid Creditor in accordance with Code and Regulations. Accordingly, the Applicant verified and admitted the claim of the aforesaid Creditor. The Applicant submits that the disbursement to the stakeholders had already taken place prior to the admission of the aforesaid Creditor's claim, therefore, no amount was available for distribution to any other Creditor including the aforesaid Creditor.
- xi. It is further stated that the Applicant has concluded the liquidation of the Corporate Debtor, sold its assets, realized the liquidation proceeds and distributed the same to eligible stakeholders. All the assets of the Corporate Debtor have been completely liquidated, and there remains no other asset for further disposal. The Applicant has settled all the invoices towards the costs incurred in respect of the CIRP/Liquidation of the Corporate Debtor adjusting the same, the remaining amount has been disbursed to the stakeholders eligible to receive the proceeds as per Section 53 of the Code. Since there remained no further sums in the liquidation bank account of the Corporate Debtor, the Applicant also requested the concerned bank branch for closure of the liquidation bank account.



- xii. In compliance with Regulation 45 of the Liquidation Regulations, the Applicant has filed the final report before this Adjudicating Authority and the same has been placed on record as Annexure - V of the Application.
 - xiii. The Liquidator also obtained the audit report on Statement of Receipts and Payments of Corporate Debtor for the period ended till 31st May 2023 from Omprakash Kanthilal and Co. Chartered Accountants.
 - xiv. In compliance with Regulation 45(3) of the Liquidation Regulations, the Applicant has prepared the compliance certificate, in the prescribed 'Form H' and the same has been placed on record as Annexure-W of the Application.
3. Heard the learned Counsel for the Applicant. We have carefully perused the pleadings of the party and 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 Debtor. It is seen from the Liquidator's statement that there is no realization of assets, no amount in the bank and the movable and immovable property are liquidated, hence 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.419 of 2023 seeking dissolution of the Corporate Debtor deserves to be allowed, as prayed. As the I.A. No.419 of 2023 is disposed of allowing dissolution of the Corporate Debtor, consequently (T.P. No.88 of 2017) in C.P. No.235 of 2017 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 instant Application bearing **I.A. No.419 of**



2023 and (T.P. No.88 of 2017) in C.P. No.235 of 2017 are hereby disposed of with the following directions:

- i. The Corporate Debtor, namely, **Concur Marketing Private Limited** is dissolved, with immediate effect;
- ii. 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;
- iii. 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.
- iv. With this, the instant I.A. No.419 of 2023, and Petition bearing (T.P. No.88 of 2017) in C.P. No.235 of 2017 also stands disposed of.

Sd/-

(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

Sd/-

(T. KRISHNAVALLI)
MEMBER (JUDICIAL)