

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.303
IA(Dis)/8(AHM)2024
in
CP(IB) 562 of 2019

Proceedings under Section 54(1) of IBC,2016

IN THE MATTER OF:

Atul Sheth Liquidator for M/S Captive Foods Private LimitedApplicant

.....Respondent

Order delivered on: 08/10/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

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CHITRA HANKARE
MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
AHMADABAD BENCH
COURT- II**

IA (Dis.)/8(AHM)2024

IN

C.P. (I.B.) No. 562(AHM)/2019

(An application filed under Section 54(1) of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

Atul Sheth Liquidator
M/s. Captivate Foods Pvt. Ltd.
Having office at: B-27, Saiyam Apartments,
Near Nehru Nagar, Ambawadi,
Ahmedabad-380015

....Liquidator/Applicant

Order Pronounced on: 08/10/2026

For the Applicant : Mr. Kudeep Adesara, Adv.
For the Income Tax : Mr. Aman A Mir, Advocate

CORAM:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**DR. V.G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

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J U D G M E N T

1. The Instant Application is filed by Mr. Atul Sheth, Liquidator of M/s. Captive Foods Private Limited the Corporate Debtor, under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IB Code") with a prayer to dissolve the Corporate debtor.
2. That the Corporate Debtor is a Private Limited Company incorporated under the Companies Act, 2013 on 17.09.2014 having CIN No. U15400GJ2014PTC080811 registered office at Survey No. 156/P, Plot No. 2, Village-Naranka, Rajkot, Gujarat-360110.
3. The Operational Creditor i.e. Givaudan(India) Private Limited bearing CP(IB) No. 562/9/NCLT/AHM/2019 filed an application under Section 9 of the IBC, 2016 and vide order dated 25.04.2022 the said petition was admitted and Mr. Atul Jashwantrai Sheth has appointed as Interim Resolution Professional (hereinafter referred to as 'IRP').
4. It is submitted that as there is no chance of the revival of the Corporate Debtor, in the second meeting of CoC held on

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29.09.2023, it was decided to go for dissolution of the Corporate Debtor with 100% .

5. It is submitted that vide order dated 13.01.2024 bearing Interlocutory Application No. 609/2022 in CP (IB) No. 562/2019 liquidation process of the Corporate Debtor-M/s Captivate Foods Private Limited was initiated and Mr. Atul Jashwantra Sheth appointed as the Liquidator.
6. That the Liquidator published Form-B on 06.02.2023 in newspaper calling for claims of stakeholders of Corporate Debtor in "Financial Express" in English & Gujarati edition, the last date of submission of claim was 04.03.2023.
7. The Liquidator has conducted SCC meeting on 09.02.2023 and 29.09.2023. There are no assets of the Corporate Debtor , registered office of the Corporate Debtor was a rented premise. The Directors of the Corporate Debtor are absconding, the Applicant has also filed a Police complaint to the local police station on the basis of these facts in the second meeting of CoC it was decided with Bank of India being sole secured stakeholder to file this present application. It is also submitted

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that there were no assets of the Corporate Debtor, the entire CIRP and Liquidation Cost was borne by Bank of India being sole secured stakeholders and the amount as per Code 52 & 53 have been fully distributed.

8. The Liquidator opened a bank account in the name of M/s. Captivate Foods Pvt Ltd (in Liquidation) bearing account no. 310320110001176 and also submitted proof of closure of the same bank account.
9. The Liquidator has submitted Form -H as per Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations. As there are no assets of the Corporate Debtor, the Liquidator has filed the present application.
10. ROC has filed its reply stating that as per record available with this office, no prosecution, complaints, compounding is pending against the company.
11. Ld. Counsel for the Income Tax Department appeared and filed its reply stating that there are some outstanding dues for AY 2015-16 of Rs. 280/- and for AY 2016-17 Rs. 8140/- as

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outstanding demand are due departmental NOC cannot be granted.

12. That the Senior Manager of Bank of India filed an clarificatory affidavit in regard to assets shown in the ROC records whereas the Bank of India as Financial Creditor has claimed that there are no assets traceable and management has absconded. It is submitted that the Bank of India has sanctioned loan to the tune of Rs. 1,95,25,000/- vide sanction letter dated 21.08.2017 being sanctioned amount of Rs. 47,25,000/- towards machinery and Rs. 1,50,00,000/- cash credit limit. Further Bank created charge of an amount of Rs. 1,97,25,000/- on 24.08.2017 against the loan sanctioned. The Bank has conducted an inspection on 09.08.2021 at the rented premises of the Corporate Debtor wherein it was found that the Directors Mr. Manish Joshi and Mr. Anantray Joshi have moved the machinery from the rented premises. Bank also visited the address of the both the Directors but it was found that they have sold the house. Hence bank has issued pre FIR notice upon Mr. Manish Joshi thorough email and whatsapp number. The Bank has also don't know about the details of

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stocks and books of debts. In view of this, the Bank has decided to dissolve the Corporate Debtor as there are no assets found and no information qua the assets could be obtained as the Directors are not traceable.

13. Vide an additional affidavit dated 24.02.2026 by the Bank submits that after passing of dissolution order by this Tribunal as the Corporate Debtor ceases to exist after passing of dissolution order and charge created by Bank of India over the assets of the Corporate Debtor becomes infructuous.
14. Heard Ld. Counsel for the Applicant and the material placed on record, the affidavit of the Liquidator, the clarificatory affidavit filed on behalf of the Bank of India, and the replies filed by the Registrar of Companies and the Income Tax Department, this Adjudicating Authority is of the considered view that no useful purpose would be served by continuing the liquidation proceedings of the Corporate Debtor, M/s. Captivate Foods Private Limited. It is evident from the record that the Corporate Debtor has no traceable assets, its registered office was situated at rented premises, and the Directors of the

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Corporate Debtor are not traceable. The Liquidator has also submitted the requisite Form-H under Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations. The liquidation and CIRP costs have been borne by the Bank of India, being the sole secured stakeholder, and the amounts required to be distributed in terms of Sections 52 and 53 of the Code have been dealt with as stated by the Applicant. The Income Tax Department has stated that outstanding demands of Rs. 280/- for Assessment Year 2015-16 and Rs. 8,140/- for Assessment Year 2016-17 are reflected in its records. However, having regard to the fact that there are no assets of the Corporate Debtor available for realization and distribution, and considering the overall circumstances of the liquidation proceedings, the existence of the said outstanding demand does not warrant continuation of the liquidation process. The clarification furnished by the Bank of India also indicates that, though certain assets/charges may be reflected in the records of the Registrar of Companies, the machinery was found to have been removed from the premises of the Corporate Debtor and the Directors were not traceable. The Bank has stated that the assets of the Corporate Debtor could

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not be traced and that the particulars of stocks and book debts could not be ascertained. In view of the facts and circumstances stated hereinabove, we pass following order:

ORDER

- i. M/s. Captivate Foods Private Limited, the Corporate Debtor, is hereby dissolved with effect from the date of this order in terms of Section 54 of the Insolvency and Bankruptcy Code, 2016.
- ii. The Liquidator, Mr. Atul Jashwantraai Sheth, is discharged from his duties as Liquidator of the Corporate Debtor, subject to compliance with such statutory requirements as may be applicable.
- iii. The Liquidator shall file a copy of this order with the Registrar of Companies and the Insolvency and Bankruptcy Board of India, as required under the applicable provisions of law.

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- iv. The Registrar of Companies shall take necessary consequential steps in accordance with law consequent upon the dissolution of the Corporate Debtor.
- v. The charge created by Bank of India over the assets of the Corporate Debtor shall stand dealt with in accordance with law consequent upon the dissolution of the Corporate Debtor and the cessation of its existence. However, this order does not in any way stop any proceedings if any initiated by any of the creditor against the suspended management before any other appropriate court of law for recovery of its assets mortgaged/charged for release of loan.
- vi. It is clarified that the dissolution of the Corporate Debtor shall not affect any statutory or legal proceedings which, by virtue of the provisions of the Insolvency and Bankruptcy Code, 2016 or any other applicable law, are capable of being continued or enforced notwithstanding such dissolution.

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- vii. The Liquidator shall preserve the books, records and documents of the Corporate Debtor in accordance with the applicable provisions of law.
- viii. The Registry is directed to communicate a copy of this order to the Applicant/Liquidator, the Registrar of Companies, the Insolvency and Bankruptcy Board of India, the Income Tax Department and the Bank of India for information and necessary action.
- ix. IA No. 8/2024 in CP (IB) No. 562/2019 is accordingly disposed of.

Sd/-

DR. V.G. VENKATA CHALAPATHY
MEMBER(TECHNICAL)

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CHITRA HANKARE
MEMBER(JUDICIAL)

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