SL. No.9

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)
CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 21.08.2024 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO	**IA (IBC)/1414/2024 in CP(IB) No.278/7/HDB/2018**
NAME OF THE COMPANY	**BS Ltd**
NAME OF THE PETITIONER(S)	**State Bank of India**
NAME OF THE RESPONDENT(S)	**BS Ltd**
UNDER SECTION	**7 of IBC**

ORDER

IA (IBC)/1414/2024

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

Vamsi

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-II

IA.No. 1414 of 2024 in
CP (IB) No. 278/7/HDB/2018

[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 45 of the IBBI (Liquidation Process) Regulations, 2016]

<u>In the matter of M/s. BS Limited (in Liquidation)</u>

M/s. BS Limited (In Liquidation)
Represented by its Liquidator
Yadavalli Sai Karunakar
Flat No. 205, B-Block, 2nd Floor, Kushal Towers,
D.No. 6-2-975, Khairatabad, Hyderabad-500004(TS)
Email: liquidatorbsl@gmail.com

…Applicant/ Liquidator

<u>Date of Order: 21.08.2024</u>

<u>CORAM</u>:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

<u>Counsel/Parties present</u>:

For the Applicant : M/s M. Anil Kumar, Advocate

[Per: Bench]

ORDER

1. This application is filed by the Liquidator of the Corporate Debtor M/s. BSLimited, seeking closure of the Liquidation process of Corporate Debtor (CD) on account of successful sale of the Corporate Debtor as a going concern.

2. This Authority admitted the Company Petition filed under Section 7 of the IBC by the State Bank of India, a Financial Creditor, vide an order dated 01.11.2018 and ordered the commencement of the Corporate Insolvency Resolution Process (CIRP) for the CD. Dr. K.V. Srinivas was appointed as the Interim Resolution Professional (IRP) and was later confirmed as the Resolution Professional (RP) for the CD.

3. Since the RP did not receive any viable plan for the CD, this Authority ordered liquidation of the CD vide Order dated 17.10.2019 and Mr. Yadavalli Sai Karunakar, the Applicant herein, was appointed as the Liquidator for the CD on 25.10.2019.

4. On 07-11-2019, the Liquidator issued a public announcement in Form-B, inviting claims from stakeholders. After receiving the claims, the Liquidator constituted the Stakeholders Consultation Committee (SCC). Initially, the Liquidator used the values from the valuation reports conducted during the CIRP. Later, in consultation with the SCC, the Liquidator appointed registered valuers to revalue the individual assets at the time of their sale. The details of the fair value and liquidation value are as follows :

Valuation as per Registered Valuers	Fair Value	Liquidation Value
Latest valuations carried out in respect of the assets relinquished to the Liquidation Estate.	Rs. 17,35,88,675	Rs. 12,69,19,247
Valuation reports obtained during CIRP period for all the assets of the CD including the fixed assets which are not relinquished to the liquidation estate during the liquidation process	Rs. 240.00 Crores	Rs. 138.86 Crores

5. On 08.04.2022, the Applicant, with the permission of this Authority, conducted a private sale of the CD's investment in the equity shares of the joint venture company M/s. Raichur Sholapur Transmission Company Pvt. Ltd. This investment was excluded from the liquidation estate and the remaining estate was put up for sale as a going concern. Additionally, the Applicant conducted auctions of other assets of the CD on various dates and submitted sale reports along with each quarterly progress report detailing the assets sold. Below is a summary of the assets sold from the liquidation estate:

Sl. No.	Description of Asset	Mode of sale	No. of Auctions	Sale Amount in Rs.	Amount Realized in Rs.
1.	Trade & Other Receivables	Demand Notices	-	-	Rs. 96,307
2.	Inventory	E-Auction	1	-	e-Auction failed

3.	Athvelly Land	E-Auction	3	Rs. 9,30,50,000/- As stated supra	Nil, due to buyer backout
4.	Investment in equity shares of M/s Raichur Sholapur Transmission Company Pvt. Ltd.	Private Sale	Not Applicable	Rs. 9,38,98,007	Rs. 9,38,98,007
5.	Going Concern Sale	E-Auction	1	Rs. 15,30,00,000	Rs. 15,64,02,740 (Including interest of Rs. 34,02,740)
Total			5		Rs. 25,03,97,054

6. The liquidation value of the estate is Rs. 12,69,19,247/-, while the amount realized from its sale is Rs. 25,03,97,054/-. Additionally, there is a balance of Rs. 2,12,52,121/- in the liquidation account and Rs. 61,72,075/- in interest earned during the liquidation process. The total amount of Rs. 27,78,21,250/- was distributed to stakeholders as per Sections 52 and 53 of the Code within three months of realization, after deducting Rs. 18,84,567/- (unpaid CIRP costs) and Rs. 2,95,73,095/- (total liquidation costs).

7. It is submitted that after distributing all amounts from the Liquidation Bank Account No. 043702000001979 at Indian Overseas Bank, Lakadikapul Branch, Hyderabad (IFSC Code: IOBA0000437), the account was closed on 03.07.2024.

8. It is further submitted that till now, the first charge holders have not realized the secured assets handed over to them, the estimated surplus from selling these assets remains unsold. Since it is uncertain that when such unsold Asset will be realized by the first charge holders, the Applicant discussed the matter in the

17th SCC Meeting held on 19.06.2024 and decided to distribute the surplus among the Secured Financial Creditors with the Authority's approval. Consequently, the Liquidator filed **IA No. 1378 of 2024**, seeking permission from this Authority to distribute the surplus amount after the realization of the said unsold assets and the same was disposed on 29.07.2024 directing the first charge holders to tender the surplus amount of Rs.96.28 crores to the Liquidation Account.

9. It is submitted that the following significant litigation proceedings are currently pending before this Authority and the Hon'ble NCLAT:

IA No. 323 of 2019:

(i) On 01.10.2021, this Authority disposed of the application, briefly directing that preferential and undervalued transactions be rejected and granting permission to readdress the fraudulent transaction after the pending cases before the Hon'ble High Court and Supreme Court regarding fraud are resolved.

(ii) In accordance with Regulation 44A of the IBBI (Liquidation Process) Regulations, 2016, the SCC resolved in their 14th meeting that the Secured Financial Creditors shall readdress and pursue the fraudulent transactions in IA No. 323 of 2019, after declaring the Corporate Debtor's account as fraudulent, and after providing a reasonable opportunity for the erstwhile management to be heard.

(iii) As of the date of filing for closure of the Liquidation Process, the Bankers have not yet complied with the Hon'ble High Court's order declaring the account as fraudulent. Therefore, the Secured Financial Creditors will readdress the fraudulent transactions in IA No. 323 of 2019 after the account is declared fraudulent.

(iv) Further in the 17th SCC meeting held on 19.06.2024, the Secured Financial Creditors resolved to pursue the fraudulent transactions mentioned in IA 65/2020 on a cost-sharing basis.

IA No. 65 of 2020:

This application filed for a detailed investigation into the affairs of M/s. BS Limited during its commercial operations was requested from a competent investigation authority to uncover the fraud. As per the directions of the Adjudicating Authority's order dated 08.05.2024, the Liquidator held the 17thSCC Meeting on 19.06.2024 and sought advice from the SCC on the continuation of IA No. 65 of 2020 after the closure of the Liquidation Process. In this meeting, it was resolved with 95.50% votes that the Secured Financial Creditors would continue to address the fraud matters in IA No. 65 of 2020.

CA(AT)(Ins) No. 141 of 2021 before Hon'ble NCLAT, Chennai:

The application, IA. No. 64 of 2020, was filed by the Liquidator against the non-cooperation of the erstwhile Management, Resolution Professional, and Lenders. On 07.05.2021, this Authority rejected IA No. 64 of 2020 without addressing the concealed assets worth over Rs. 100 crores. Consequently, the Liquidator challenged this rejection order before the Hon’ble NCLAT, Chennai, via CA(AT) (Ins) No. 141 of 2021.

CA(AT)(Ins) No. 28 of 2021 before Hon’ble NCLAT, Chennai:

The application, IA No. 1148 of 2020, was filed by IFCI, Bank of India, Punjab National Bank, IDBI Bank, Canara Bank, and Laxmi Vilas Bank, seeking the removal and replacement of the current Liquidator. This application was rejected on 07.01.2021. Subsequently, the Bank of India and others appealed against this decision before the Hon’ble NCLAT, Chennai, via CA(AT) (Ins) No. 28 of 2021.

10. The pending cases CA(AT) (Ins) No. 141 of 2021 and CA(AT) (Ins) No. 28 of 2021 before the Hon'ble NCLAT, Chennai, may become infructuous after the closure of the Liquidation Process. The Secured Financial Creditors will continue to address the IA No. 323 of 2019 and IA No. 65 of 2020 on a cost sharing basis.

11. Along with the application the Applicant has submitted the Final Report of the Liquidation Process,Compliance Certificate in Form-H, Liquidation Bank Account statement showing zero balanceand Audited receipts & payments Account from the date of commencement of the Liquidation till date.

12. It is submitted that since the entire sale proceeds have concluded with the distribution of the funds amongst the creditors of the CD, the Applicant is seeking closure of the Liquidation proceedings against the CD.

13. We heard the Counsel for the Applicant and perused the all the documents place on record.

14. Now, it is important to look into the Regulation 45(3)(a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The saidprovision reads as under:-

> *"Regulation 45 (3) (a): Final report prior to dissolution.*
>
> *(3) The liquidator shall submit an application along with thefinal report and the compliance certificate in form-H tothe Adjudicating Authority for –*
>
> *(a) closure of the liquidation process of the corporatedebtor where the corporate debtor is sold as a goingconcern; or*

15. Upon perusal of the Final Report of liquidation process **(Annexure 1)** and Form H – compliance certificate **(Annexure 2),** it is evident that the Liquidator has sold the CD as a going concern with the consent of SCC, as such it is a fit case forclosure of Liquidation process.

16. As a sequel to the above, we hereby order closure of the Liquidationproceedings against the CD viz. M/S. BS Limited from the date of this Order, in termsof Regulation 45(3) of Insolvency Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Consequently, the Liquidatorstands relieved.

17. The Liquidator is directed to send the copy of this Order within 7 daysfrom the date of pronouncement to the Registrar of Companies,Hyderabad and the concerned authorities and hand over all the books and files of the CD M/S. BS

Limited which are in possession of the Liquidator to thesuccessful bidder i.e. M/S. Vasavi Realty Private Limited.

18. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad and concerned authorities for updating the master data.

19. A copy of this order be also forwarded to the Insolvency BankruptcyBoard of India, New Delhi.

20. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

21. In terms of the above, this application is allowed and stands disposed of accordingly.

SD/-	SD/-
(SANJAY PURI) **MEMBER (TECHNICAL)**	**(RAJEEV BHARDWAJ)** **MEMBER (JUDICIAL)**