IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/372/KOB/2023
IN
CP(IBC)/25/KOB/2021
(Under Section 54 of the IBC, 2016)

In the matter of:
M/s. Tenny Jose Limited.

Memo of Parties:

Mr. Prathap Pillai IBBI/IPA-003/ICAI-N-00371-2021-22/13822, Liquidator of M/s. Tenny Jose Limited, M/s. Finance Attorneys, Myhome Building, Dharmalayam Road, Thampanoor, Trivandrum, Kerala- 695 001.

… Applicant.

Order delivered on: 31.10.2023

Coram:

Hon'ble Member (Judicial) : TMT. Justice (Retd.) T. Krishna Valli.

Hon'ble Member (Technical): Shri. Shyam Babu Gautam.

Appearances:

For the Applicant : Mr. Prathap Pillai, Liquidator in person.

ORDER

Per: Coram

1. The present application is filed by the Applicant/Liquidator under Section 54 of the IBC, 2016 for the following reliefs: -
   i. To direct designated managers of South Indian Bank and State Bank of India to pursue the PUFE transactions and to distribute the receipts as per Section 53 of IBC.
   ii. To direct the dissolution of the Corporate Debtor, Tenny Jose Limited.
2. The Brief facts of the case are as follows: -
3. The Corporate Debtor was brought into the Corporate Insolvency Resolution Process (CIRP) through an application filed under section 9 of the Insolvency and Bankruptcy Code by the Operational Creditor, Korea Trade Insurance Corporation with effect from 21.12.2021. The applicant was appointed as the Resolution Professional (RP) on 23.04.2022.
4. The CIRP was extended twice. The first extension was on 28.06.2022 for 60 days and the second extension was on 29.08.2022 for 90 days. Since the prospective resolution applicant failed to submit a Resolution plan, SCC with 98.33% of the vote had decided to file the application for liquidation of the Corporate Debtor. On 16.12.2022, liquidation application was allowed and the Resolution professional was appointed as the Liquidator.
5. In accordance with Regulation 12 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Applicant/Liquidator made a public announcement and as per

Regulation 13(a), the Liquidator provided details of the capital structure of the corporate debtor in his preliminary report. Which consisted of 6 Crore equity capital which was fully paid up in the name of the suspended directors. However, the accumulated net loss as on 21.12.2021 (CIRP commencement date) was Rs.44,61,04,718/- by the capital position of the Corporate Debtor fully washed away.

6. In accordance with Regulation 16 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 all the stakeholders had submitted their claim and the Liquidator updated the claim in the IBBI portal and accordingly constituted the Stakeholders Consultation Committee (SCC).

7. The total claims and vote share of each stakeholder are as follows: -

Creditors	Class/Type	Claim filed in Liquidation	% Share
South Indian Bank	Secured Creditors	36,42,86,108.56	37.8
State Bank of India	Secured Creditors	35,75,49,611	37.02
Kotak Mahindra Prime	Secured/Realized	23,56,373.00	Nil

TOTAL		72,41,92,092.56	
Tata Capital	Unsecured Creditors	29,62,745.00	0.31
Cap Float Financial Services.	Unsecured Creditors	25,26,017.95	0.26
IIFL Finance Ltd.	Unsecured Creditors	18,87,936.67	0.20
TOTAL		73,76,699.62	
Korea Trade Insurance Corporation	Operational Creditors	21,96,45,635	22.74
Peter, GMPH	Operational Creditors	16,665,552.42	1.7
Mohandas Associates	Operational Creditors	2,38,470.00	0.10
TOTAL		23,65,49,657.42	
ESI Corporation	Operational Creditors (Workmen)	36,304.00	Nil
TOTAL		36,304.00	
TOTAL		96,81,54,753.6	

8. An amount of Rs. 15,11,769.80/- was deposited into the liquidation account opened at South Indian Bank, Thiruvananthapuram and an amount of Rs. 14,000/- received by way of cash was expended for expenses approved by the SCC. The Applicant/Liquidator also realized Rs. 7,73,250/- in total, from Kerala State Electricity Board in the form of a refund of earnest money deposit. The liquidation account closed on 21.08.2023

9. The Applicant stated that the third SCC held on 06.03.2023, invited Expression of interest from third parties willing to buy the judgment right accrued on PUFE applications. However, none expressed interest in buying the same

10. The Applicant/Liquidator filed INC 28 with ROC Kerala, informing the commencement of the liquidation process on 16.12.2022. The Applicant/Liquidator stated that he communicated to the Income Tax Department, GST Department and Provident Fund Department that the liquidation of the Corporate Debtor is complete and application for dissolution being filed.

11. The SCC has formulated a PUFE committee consisting of Senior Managers of South Indian Bank and State Bank of India to pursue the PUFE transactions and to distribute the final receipts, if any as per Section 53 of the IBC Code, after the dissolution process is over. This discussion was by way of a resolution passed in the fifth SCC meeting held on 31.07.2023 with a 98.33% vote share. The Applicant/Liquidator is placing the said resolve of the SCC before

this Adjudicating Authority as Regulation 31A(1)(e) mandates the Liquidator to form such a committee.

12. In accordance with Regulation 45(3) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Applicant/Liquidator submits the final report before this Adjudicating Authority on 23.06.2023 along with Form H-Compliance Certificate.

13. The Applicant/Liquidator stated that the receipts and payments account in the liquidation account along with the Bank Statement and supporting documents were duly audited and certified by a Chartered Accountant. The said audit report was appreciated by the SCC in its sixth meeting held on 04.09.2023.

FINDINGS: -

14. We have heard the arguments of the learned counsel for the Applicant at length and perused the entire case records/documents. We have also gone through the evidence on record. The Applicant/Liquidator has submitted Annexure G2, Form H compliance affidavit and Annexure G1, Final Report on liquidation along with this application. In light of facts stated, it is noticed that the assets of the Corporate Debtor have been completely liquidated under IBC, 2016 and no objection has been raised by any person to this application.

15. Now, for the purpose of Dissolution of a Corporate Debtor, Section 54 of The Insolvency and Bankruptcy Code, 2016 reads as under: -

> "54. (1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.
>
> (2) The Adjudicating Authority shall on application filed by the liquidator under subsection (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.
>
> (3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered."

16. The instant application is filed by the Liquidator on the direction of the CoC. In the fifth meeting of SCC held on 31.07.2023, Resolution 1 was passed to dissolve the Corporate Debtor with a 98.33% voting share. The Resolution 1 of the said meeting of SCC is reproduced hereunder: -

Resolution 1: Dissolution of the Corporate Debtor:

"Resolved, having completed all required formalities/ procedures for the liquidation of the Corporate Debtor, Tenny Jose Limited, the fifth SCC held on 31.07.2023 at 11.30 AM, voted with 98.33% of the

vote share of file application for dissolution before the NCLT Kochi Bench."

17. As a consequence, in view of above, it is hereby declared that not only it is just and equitable but because of the fact that no asset is available for the purpose of 'Liquidation' as reported by Learned Liquidator, this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016. Ordered accordingly. The Corporate Debtor **stands 'Dissolved'** from the date of this Order.

18. In order to arrive at a decision in the matter, it is profitable to quote the resolution 2 of the fifth SCC meeting as under: -

Resolution 2: Procedure to continue with avoidance cases pending before the NCLAT and any future litigation and distribution thereof.

"Resolved to constitute a committee named PUFE committee consisting of representatives from State Bank of India Mr. Ulaganathan-AGM and authorised officer and from South Indian Bank Mr. Ajay Kumar- Chief Manager and Mr. Jossy Varghese-Senior Manager, who shall be responsible to pursue the PUFE litigation and finally to distribute the proceeds as per Section 53 of the IBC Code."

19. In view of the detailed discussion above, we direct the designated managers of the South Indian Bank and State Bank of India to pursue

the PUFE transactions and distribute the receipts as per Section 53 of the IBC, 2016.

20. With the aforesaid observation, **IA(IBC)/372/KOB/2023 is allowed** and disposed of.

21. Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies having jurisdiction, for further necessary action as prescribed under Law.

22. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.

23. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.

24. File be consigned to records.

SHYAM BABU GAUTAM
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Date: 2023.10.31 16:32:10 +05'30'

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

T.KRISHNAVALLI
Digitally signed by T.KRISHNAVALLI
Date: 2023.10.31 16:32:45 +05'30'

T KRISHNA VALLI
(MEMBER JUDICIAL)

Signed on this the 31st day of October, 2023.

Rajasree R. Nair/LRA