

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-V**

**IA 3593/MB-V/2023**

**in**

**CP(IB) 3179/MB-V/2019**

Under Section 54 of Insolvency and Bankruptcy Code, 2016 read with Regulation 14 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

*In the matter of*

**Ms. Nishi Jain**

.... Insolvency Professional/Liquidator

*In the matter of*

**Stepping Stone Financial Services Private Limited**

.... Financial Creditor

Vs.

**Pacific Multi-Commodity Limited**

... Corporate Debtor

**Order Dated: 14.09.2023**

**Coram:**

Hon'ble Ms. Reeta Kohli, Member (Judicial)

Hon'ble Ms. Madhu Sinha, Member (Technical)

*Appearances*

:

For the Petitioner(s)

:

Adv. Ricky Sampat.

**ORDER**

***Per: Reeta Kohli, Member (Judicial)***

1. It is an Application filed by Ms. Nishi Jain, the Liquidator seeking an Order under Section 54 for granting “**Dissolution**” of Pacific Multi-Commodity Limited, the Corporate Debtor.

2. The Financial Creditor filed a Petition under Section 7 of the Code against the Corporate Debtor for a default amount of Rs.42,55,000/- which was due and payable as on 01.06.2019. The Adjudicating Authority vide its order dated 02.01.2020 directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, wherein Mr. Manoj Kumar Jain, was appointed as Interim Resolution Professional (IRP).
3. The Applicant states that the Interim Resolution Professional made Public Announcement for submitting claims in Financial Express (English) and Mumbai Lakshadeep (Marathi) as required under Section 12 of the Code, in Form A on 07.01.2020 and intimated all the Creditors to submit their claims.
4. The Applicant submits that, only 1 (one) claim was received from the Financial Creditor, i.e. Stepping Stone Financial Services Private Limited, who had filed the captioned Petition. In the 1<sup>st</sup> CoC meeting held on 10.02.2020, the CoC proposed to continue the appointment of Interim Resolution Professional as the Resolution Professional of the Corporate Debtor. The minutes of 1<sup>st</sup> CoC Meeting is annexed as Annexure “C” to the Application. The CoC only consists of one member as follows:

| <b>Sr. No.</b> | <b>Name of the CoC Member</b>                     | <b>Total Claims in Rs.</b> | <b>% Share of Voting</b> |
|----------------|---|----------------------------|--------------------------|
| 1.             | Stepping Stone Financial Services Private Limited | 42,55,000                  | 100                      |
| <b>Total</b>   |   | <b>42,55,000</b>           | 100                      |

5. The Applicant states that the 2<sup>nd</sup> CoC Meeting was held on 06.03.2020 wherein invitation for Expression of Interest (EoI) from

the prospective Resolution Applicants was decided to be called. The Resolution Professional in the 2<sup>nd</sup> CoC Meeting also placed the proposal for Appointment of Registered Valuer to get the valuation of assets of the Corporate Debtor in terms of Regulation 27 of CIRP Regulation, 2016. The minutes of 2<sup>nd</sup> CoC Meeting is annexed as Annexure “D” to the Application. The CoC approved the appointment of Mr. Bhavesh Rathod as registered valuer of the Corporate Debtor.

6. The Applicant states that the 3<sup>rd</sup> CoC Meeting was held on 10.08.2020. The Resolution Professional had called for EoI in “Form G” on 14.03.2020 in the Financial Express (English) and Mumbai Lakshdeep (Marathi). The Applicant states that Resolution Professional had informed the Members of CoC that no EoI was received by the Resolution Professional. The minutes of 3<sup>rd</sup> CoC Meeting is annexed as Annexure “F” to the Application.
7. The Applicant further states that Resolution Professional had informed the CoC that 180 days will expire on 30.06.2020. Subsequently, it was decided and agreed by the CoC that there being no prospect of any Resolution Plan, the Corporate Debtor should go for liquidation. Therefore, the CoC decided to file the Liquidation Application under 33 of the Code for Liquidation of Corporate Debtor.
8. The Applicant states that the Resolution Professional informed the Committee of Creditors (“CoC”) that he was not able to give consent for appointment as the Liquidator due to his health concerns and further informed Nishi Jain (the Applicant) had agreed to be appointed as the Liquidator. The Applicant further informed that the

Consent to act as Liquidator of the Company has been placed at 4<sup>th</sup> CoC Meeting. The CoC has approved the name of the Applicant as the proposed Liquidator for the Corporate Debtor.

9. Subsequent thereto, the Resolution Professional filed a Miscellaneous Application No.900 of 2021 on 05.04.2021 for Liquidation Process of the Corporate Debtor under Section 33 of the Code before this Tribunal. This Tribunal vide order dated 03.01.2023, allowed the said Miscellaneous Application and appointed Ms. Nishi Jain, the Applicant as a Liquidator of the Corporate Debtor to take necessary actions in accordance with the relevant provisions of the Code.
10. The Applicant submits that the Applicant had made Public Announcement as per Regulation 12 of IBBI (Liquidation Process) Regulation, 2016, in Form-B on 04.02.2023 in Financial Express (English) and Mumbai Lakshdeep (Marathi) inviting all Creditors to submit their respective claims together with relevant supporting evidence against the Corporate Debtor.
11. The Applicant submits that the Applicant opened a new bank account on 09.03.2023 with the ICICI Bank in the name of “Pacific multi-Commodity Limited-in Liquidation” in accordance with Regulation 41 of IBBI (Liquidation Process) Regulation, 2016.
12. The Applicant submits that, pursuant to the Public Announcement made in “Form-B”, on 04.02.2023 for which the last date of submission of claim was 06.03.2023. The Applicant had received 1 (one) claim from 1 (one) Financial Creditor i.e. Stepping Stone Financial Services Private Limited for an amount of Rs.42,55,000/- and the same was verified and admitted.

13. The Applicant submits that the Applicant received the claims from the Financial Creditor and the public announcement was made for list of Stakeholders in “Financial Express” (in English) and “Mumbai Lakshdeep” (in Marathi) on 21.04.2023. The Applicant further submits that the Applicant filed an Interlocutory Application No. 1997 of 2023 before this Tribunal was filed to place on record the list of Stakeholders of the Corporate Debtor in liquidation.
14. The Applicant states that on 01.04.2023, the Applicant in person delivered Notice+ Agenda of 1<sup>st</sup> Stakeholders meeting to the Stakeholders to attend the meeting on 01.04.2023. Further, the Stakeholders suggested that as there are no assets to be realized other than bank balance and the same is not sufficient enough to meet the liquidation costs, it is advisable to go for early dissolution of the Corporate Debtor.
15. The Applicant states that the Applicant held the 1<sup>st</sup> Consultation Meeting of its Stakeholders on 10.04.2023.
16. The Preliminary Report along with the Asset Memorandum report of the Corporate Debtor based upon the Liquidation Estate was also submitted by the Applicant vide IA No. 2653 of 2023, which was allowed and taken on record by this Bench on 03.07.2023.
17. The Applicant submits that an Interlocutory Application No.2256 of 2023 was filed before this Tribunal for placing on record the First Progress Report, for the quarter ended as on 31.03.2023, and the same was allowed and taken on record by this Bench on 03.07.2023.
18. The Applicant states that, as per Notice+ Agenda dated 13.06.2023 conducted the 2<sup>nd</sup> meeting of stakeholders on 15.06.2023 and in the

said meeting discussion held with all the stakeholders about the necessary steps taken in the liquidation process.

19. The Applicant states that the final list of Distribution of funds was carried out on 13.06.2023 in the matter of Pacific Multi-Commodity Ltd. The Applicant distributed to the following Stakeholders based on their Proportion and Services proved by them by way of NEFT/RTGS:

| <b>Sr. No.</b> | <b>Bank Name, Branch and Account Number</b>      | <b>Amount (Rupees)</b> |
|----------------|--|------------------------|
| 1.             | ICICI BANK, Fort Branch Account No. 219605001045 | 2,02,135.37            |
|                | Total  | 2,02,135.37            |

20. The following list shows the breakup of amount payable to the Stakeholders:

| <b>Bank Name, Branch and Account Number</b>       | <b>Amount Claimed</b> | <b>Distribution</b> |
|---|-----------------------|---------------------|
| Stepping Stone Financial Services Private Limited | 42,55,000             | Nil                 |
| Total   | 42,55,000             | Nil                 |

21. The Applicant states that in the 2<sup>nd</sup> Consultation Meeting of Stakeholders, the Applicant informed the Stakeholder that the Applicant is in the process of closing the existing Liquidation-Bank Account held with ICICI Bank.
22. The Applicant filed Compliance Certificate in Form – H as per Regulation 45 (3) of the IBBI (Liquidation Process) Regulation, 2016 by email on 24.06.2023

23. The Applicant submitted the copy of Bank Closure Letter of ICICI Bank, dated 30.06.2023 reflecting the closure of Bank Account of the Company. The said Letter dated 30.06.2023 is annexed at P.268 A of the Application.

24. As per the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, vide Regulation No.14, it is prescribed as under:

*“14. Any time after the preparation of Preliminary Report, if it appears to the liquidator that –*

- (a) The realizable properties of the corporate debtor are insufficient to cover the cost of liquidation process; and*
- (b) The affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution.”*

25. In the light of the above it is noticed that the Corporate Debtor does not have assets to be liquidated hence an Application is moved for the “Dissolution of the Corporate Debtor”.

26. For the purpose of pronouncement 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.*

27. As a consequence, through this Order 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 the 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.
28. Since the Debtor Company stands Dissolved vide this order and no proceedings are now pending, therefore the Registry is directed that the case file be consigned to records.
29. 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.
30. Accordingly, IA No. 3593 of 2023 is hereby allowed and disposed of and CP IB No. 3179 of 2019 is hereby closed.

Sd/-

**MADHU SINHA**  
**MEMBER (TECHNICAL)**

Sd/-

**REETA KOHLI**  
**MEMBER (JUDICIAL)**