

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

**IA No. 1408 of 2022
In
CP No. 1687/IBC/MB/2017**

Under sections 54 and 60(5) of the Insolvency & Bankruptcy Code, 2016 r/w Regulation 45 of IBBI (Liquidation Process) Regulations 2016.

Mukesh Khathuria,
Liquidator of,
Lata Export Apparels Private Limited
[CIN: U17200MH1996PTC104231]
B-201, B.T. Mills Compound, L.B.S. Marg,
Bhandup (West) Mumbai - 400078.

...Applicant / Liquidator

In the matter of

Lata Export Apparels Private Limited
[CIN: U17200MH1996PTC104231]
B-201, B.T. Mills Compound, L.B.S. Marg,
Bhandup (West) Mumbai - 400078.

...Corporate Debtor

Order Delivered on:11.08.2023

Coram:

Hon'ble Member (Judicial) : Mr. H. V. Subba Rao

Hon'ble Member (Technical): Ms. Anu Jagmohan Singh

Appearance:

For the Applicant: Mr. Prakhar Tandon, Advocate a/w Mr. Agam H. Maloo Advocate and Mr. Mukesh Khathuria, Liquidator.

ORDER

Per: Anu Jagmohan Singh, Member (Technical)

1. This is an Application by the Liquidator of **Lata Export Apparels Private Limited** (hereinafter referred to as the Corporate Debtor) under Sections 54 and 60 (5) of the Insolvency & Bankruptcy Code, 2016 (the Code) read with Regulation 45 of the IBBI (Liquidation Process) Regulations 2016 seeking dissolution of the Corporate Debtor.
2. The Corporate Insolvency Resolution Process (CIRP) was admitted by this Tribunal under Section 10 of the Code vide Order dated 08.01.2018 in the above captioned Petition and by the said Order, Mr. Rahul Kavathekar was appointed as Interim Resolution Professional (IRP). Copy of the Order dated 08.01.2018, initiating CIRP against the Corporate Debtor is annexed to the Interlocutory Application as **Exhibit – A**.
3. Ms. Jovita Reema Mathuias, who was appointed as the Resolution Professional (“RP”) conducted CIRP of the Corporate Debtor and had filed an application under Section 33(2) of the Code seeking orders for initiation of Liquidation of the Corporate Debtor. The said Application seeking initiation of liquidation was allowed by this Tribunal vide order dated 10.04.2019 and Mr. Mukesh Khathuria (Applicant) was appointed as Liquidator to perform functions as Liquidator of the Corporate Debtor as per the provisions of the Code and its allied regulations. Copy of the Order dated 10.04.2019 is annexed to the Interlocutory Application as **Exhibit – B**.

4. On 12.07.2019, the Applicant submitted its first Progress Report for the period from 16.04.2019 till 30.06.2019, wherein the Applicant informed regarding the appointments of two valuers and regarding public announcement in two newspapers as per the provisions of Code namely, Free Press Journal in English language and Navshakti in vernacular language. The Applicant further verified the claims of various stakeholders based on the proofs submitted, books of accounts and other records available with the Corporate Debtor. The Liquidator also reported that there was several missing inventories and assets. Copy of the First Progress Report dated 12.07.2019 is annexed to this Interlocutory Application as **Exhibit – C**.
5. Thereafter, on 15.10.2019, the Applicant submitted its Second Progress Report for the period 01.07.2019 to 30.09.2019, wherein, the Applicant appointed a professional for statutory audit of the accounts of the Corporate Debtor from FY 2018-19 till the completion of liquidation process. Also, list of stakeholders containing details of claims admitted by the Applicant has been filed with this Tribunal 03.07.2019. The Liquidator had written a letter to the secured creditors for the confirmation on relinquishing their security interest on the assets of the company or realise their security interest in the manner specified in the Code. The Liquidator had conducted online auction on 10.09.2019 for the sale of assets of the Corporate Debtor, which remains unsold in the said auction, hence the auction was unsuccessful. Copy of the Second Progress Report dated 15.10.2019 is annexed to this Interlocutory Application as **Exhibit – D**.
6. The Applicant had sent a letter to Kotak Mahindra Private Limited (a Secured Creditor) for the confirmation on relinquishing their security

interest on the car financed by Kotak Mahindra Private Limited. The Applicant made an effort and conducted second online auction of the properties where Land and Building remains unsold and the auction again failed in spite of the endeavours made to sell the property by reducing the price.

7. On 16.06.2020, the Applicant submitted its Fourth Progress Report online along with First Asset Sale Report for the period 01.01.2020 to 31.03.2020, the Applicant conducted an e-auction on 27.01.2020 but the assets remained unsold after 3 auctions.
8. On 08.01.2021 the Applicant submitted Fifth Progress Report for the period ending on 31.12.2020, wherein the Applicant conducted 4th online auction of assets of the Corporate Debtor as per the decision taken by the 4th meeting of Stakeholders Consultation Committee (SCC) held on 11.03.2020. The Applicant received the bid from the sole bidder M/s. Haware Leacky at reserve price i.e. Rs.2,25,00,0000/-. Copy of 4th SCC minutes is annexed to this Interlocutory Application as **Exhibit – E**.
9. The Liquidator had verified the claims in pursuance of Sec.40(2) of the Code. There was no other property or asset to be sold. However, there was TDS refund due of around Rs.13.50 lacs, which is yet to be refunded to the Corporate Debtor by the Income-tax Department. Copy of the Sixth Progress Report dated 17.04.2021 is annexed to the Interlocutory Application as **Exhibit – F**.
10. The Applicant had filed an Interlocutory Application No.2216 of 2020 for fraudulent sale transaction of 500 sq.mts. of Land done by former Managing Director (MD) of the Corporate Debtor. Since the land was reverted back to the company by way of fresh sale deed entered on

16.07.2020 and the Liquidator has sold the said property in auction on “As is where is basis”. The said Application became infructuous and the same was disposed of vide order dated 16.03.2021, which reads as follows:

11. In the Seventh Progress Report for the period 01.04.2021 to 30.06.2021, the Applicant informed this Tribunal that no further property or asset was left in the Corporate Debtor to be sold. However, there was TDS refund dues of around Rs.13.50 lacs pending, which was yet to be refunded to the Corporate Debtor by the Income-tax Department. The Applicant has made personal visits and also written letters to the department for issuance of refund, but there is no release of refund until June 2021 by the I.T. Dept. Copy of the Seventh Progress Report for the quarter 01.04.2021 to 30.06.2021 is annexed to the Interlocutory Application as **Exhibit – H**.
12. The Applicant in the Eight Progress Report for the period 01.07.2021 to 30.09.2021, has appointed a firm of Chartered Accountant M/s. HNV Trivedi & Co. to render professional services related to the TDS refund of Rs.13.50 lacs from the Income-tax Department. Copy of the Eight Progress report is annexed to this Interlocutory Application as **Exhibit – I**.
13. The Applicant in the Ninth Progress Report for the three-month period from 01.10.2021 to 31.12.2021, informed that a preliminary report had been filed with this Tribunal on 03.07.2019. As per the report filed, the total liquidation costs estimated at Rs.19,45,000/- including the Liquidator’s cost of fee. However, since completion of sale of assets took more time and there was no realization initially, during the first 6 months of Liquidation period, there was decrease in the Liquidator’s fee

payable in pursuance of Regulation 4(2) (b) of the IBBI (Liquidation Process) Regulations, 2016. Accordingly, the total estimated Liquidation costs is stated to be around Rs.16,50,000/-. Copy of the Ninth Progress Report for the period 01.10.2021 to 31.12.2021 is annexed to this Interlocutory Application as **Exhibit – J**.

14. In the Final Report prior to dissolution of Corporate Debtor, the Applicant has summarized the process of liquidation and provided the details of distribution made to the Stakeholders, is as under :

Sr. No.	Stakeholders under Section 53(1)	Amount claimed	Amount admitted	Amount distributed	Amount distributed to the amount claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	(a) CIRP Costs	5,62,900	5,62,900	5,62,900	100%	
2.	(a) Liquidation costs	17,83,908	17,83,908	17,83,908	100%	
3.	(b)(i) Workmen dues	1,54,82,438	86,60,430	17,23,433	11%	
4.	(b)(ii) Secured Creditor	10,81,81,404	10,73,80,000	2,13,56,192	20%	
5.	(c) Employees Dues	7,88,233	7,01,579	-	-	
6.	(d) Unsecured F.Cs	-	-	-	-	
7.	(e)(i) Govt. dues	2,58,51,388	84,25,000	-	-	
8.	(e)(ii) Other FCs	-	-	-	-	
9.	(f) Operational Creditors	65,19,232	59,18,091	-	-	
10.	(g) Pref. S/Hs	-	-	-	-	
11.	(h) Equity S/Hs	-	-	-	-	
Total		15,91,69,503	13,34,31,908		2,54,26,433	

Copy of the Final Report is annexed to this Interlocutory Application as **Exhibit – K**.

15. The Applicant submits that the undistributed proceeds – Corporate Liquidation Account, as against the total distributable proceeds of

Rs.2,54,26,433/-, an amount of Rs.64.999/- remains undistributed, since the bank account of 21 workers, out of the total 200 workers were untraceable. The Liquidator has been repeatedly following up with other co-workers and union leaders for the account details. The Liquidator has also checked with the Union Bank, Wada Branch (erstwhile Corporation Bank). However, the workers as well as their bank account details are untraceable. Accordingly, the Liquidator has, in compliance with Regulation 46 of the IBBI (Liquidation Process) Regulations, 2016 deposited an amount of Rs.64,999 into the Corporate Liquidation Account maintained by the Board with Punjab National Bank as per the following details:

Name of the Account	IBBI-Corporate Liquidation Account
Account Number	2254005800000015
Name of the Bank	Punjab National Bank
IFSC Code	PUNB0225400
Name of the Branch	Barakhamba Road Branch, New Delhi
Date of Deposit	28 th March 2022

16. Details of realization of Liquidation proceeds and distributions made to the Stakeholders is as follows:

Particulars	Amount in Rs.
The total proceeds realized during the Liquidation proceeds is Rs.2,56,46,354/- as per the following details:	
Land & Building	2,26,26,493
Plant and Machinery and Furniture & Fixtures	16,10,000
Trade Receivables	31,000
TDS Refunds	11,36,730

NSIC Limited	14,596
Cash and Bank Balances	1,69,983
Interest	57,552
Total Proceeds	2,56,46,354

Out of the above, Rs.2,19,921/- has been paid to Employees Provident Fund Organization towards PF Dues as priority payment. Thus, the net proceeds from the Liquidation is **Rs.2,54,26,433/-**.

17. The Liquidator has filed the Tenth Progress Report on 19.04.2022 for the period 01.01.2022 to 31.03.2022 and retained an amount of Rs.58,000 towards further expenses for Liquidation comprising of Legal & Filing charges, Auditor's fee, ROC filing fee, storage charges, etc. and has made distribution of the balance proceeds to the Stakeholders in accordance with Section 53 of the Code. Copy of the Tenth Progress Report for the quarter January to March 2022 is annexed to this Interlocutory Application as **Exhibit – M**.
18. Further, the Liquidator in its Tenth Progress Report submits that, he has received the pending Income Tax Refunds in this quarter and has completed the realisation of the entire Liquidation Estate of the Corporate Debtor.
19. The Liquidator has placed on record “**Form-H**” vide Additional Affidavit dated 04.07.2022. The Liquidator has vide Affidavit dated 20.07.2023 placed on record account closure certificate dated 22.06.2023 from UCO Bank for Liquidation Account of Lata Export Apparels Private Limited having account No. 09240210001936.
20. The Applicant has complied with the procedure laid under the provisions of the Code read with IBBI (Liquidation Process) Regulations

2016, and it is fit to pass dissolution order the provisions of Section 54 of the Code.

21. That the Applicant prepared the compliance certificate under Regulation 45(3) of the Regulations in form Form-H. Therefore, Applicant submits that the Applicant has fulfilled all his duties as per the Code and has done all the compliances as per the time-line provided under the Regulations. Hence this Application.
22. On examining the submissions made by the Counsel appearing for the Applicant and the documents annexed to the Application, it appears that the affairs of the Corporate Debtor have been wound up and its assets have been completely liquidated. The above stated facts and circumstances indicate that due process of liquidation, as per extant provisions and in the manner indicated in the Code and Regulations, have been followed by the Liquidator to liquidate the assets of Company and the realized amounts have also been distributed among the respective claimants. The liquidation process has been duly completed as per the provisions of the Code. Thus, it would be just and equitable for this Authority to dissolve the Corporate Debtor. In view of the above the Corporate Debtor deserves to be dissolved. Hence ordered.

The Application be and the same is allowed, as follows.

- i. Lata Exports Apparels Private Limited, the Corporate Debtor, is hereby **dissolved** with immediate effect;
- ii. The Registry is directed to forward a certified copy of this order to the Registrar of Companies, Mumbai within a period of seven days;
- iii. The Liquidator is discharged.

iv. Accordingly, CP (IB) No. 1687/MB/2017 also stands closed.

23. **IA No. 1408 of 2022** in CP(IB) No. 1687 of 2017 is disposed of as **allowed.**

Sd/-

ANU JAGMOHAN SINGH

Member (Technical)

11.08.2023

Priyal

Sd/-

H.V.SUBBA RAO

Member (Judicial)