

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – III

IA/2387/2023

In

C.P.(IB)/382(MB)/C-III/2018

*(Under Section 60(5) of the Insolvency and
Bankruptcy Code, 2016.)*

Ravi Sankar Devarakonda

Liquidator of M/s. RTIL Limited

*IP Registration No. IBBI/IPA-001/IP-
P00095/2017-2018/10195,*

*Address: 41/1, 2nd Floor, 8th Main, 11th Cross
Jayanagar 2nd Block, Bangalore, Karnataka-
560011.*

.....Applicant

In the matter of

**Edelweiss Asset Reconstruction Company
Limited**

.....Financial Creditor

Vs.

RTIL Limited

.....Corporate Debtor

Order Pronounced on: 22.12.2023

CORAM:

**SHRI CHARANJEET SINGH GULATI
HON'BLE MEMBER (T)**

**SMT LAKSHMI GURUNG
HON'BLE MEMBER (J)**

Appearances:

For the Applicant/Liquidator : Adv. Rohan Kumar i/b Pradeep Joy

ORDER

Per- Charanjeet Singh Gulati, Member Technical

1. The present application is filed by Mr. Ravi Sankar Devarakonda, Liquidator of M/s. RTIL Limited (“**Applicant**”) under Section 60(5) of the Insolvency & Bankruptcy Code, 2016 (“**the Code**”), seeking direction to dispense with the requirement of filing progress reports under Regulation 15 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“**Liquidation Regulations**”) as the liquidation process is over. The dissolution application along with the final report has been filed and is pending before this Tribunal.

Relevant Brief Facts as narrated in the Application:

2. The Corporate Insolvency Resolution Process was initiated against the Corporate Debtor on 10.04.2018, and Mr. Venkatesan Sankarnarayanan was appointed as Interim Resolution Professional and subsequently as Resolution Professional.
3. Since no resolution plan was received during the CIRP, the Committee of Creditors (“CoC”) resolved to initiate the liquidation process under s.33(1)(a) of the Code. Further, the liquidation order was passed by this tribunal on 05.02.2019 in M.A. 4/2019. The Applicant was appointed as Liquidator.
4. The Stakeholders Consultation Committee also unanimously approved sale of current assets which was subject to

deterioration and theft. It was sold to highest bidder, M/s. RNT Distributors Private Limited and Applicant passed an order dated 09.10.2020 in this regard. All assets of the Corporate Debtor have been liquidated. There are no assets left to be distributed as under Regulation 38.

5. Further, the dissolution application was filed before this Tribunal on 02.06.2021 enclosing final report and Form H as required under Regulation 5(1)(f) read with Regulation 45. The Applicant has also filed 16th and 17th progress reports for the quarter ended on 30.09.2022 and 31.12.2022 respectively.

Applicant's submission:

6. The Applicant submitted that the Finquest Financial Solutions Private Limited, one of the secured creditors, filed an application seeking to enforce the security interest it holds over the assets of the Corporate Debtor.
7. After several litigations before this Tribunal and Hon'ble Appellate Tribunal, the latter laid down that Liquidator has the power to determine a charge over the property and directed Applicant to determine first charge holder over property.
8. Pursuant to provisions of the Code and the Liquidation Regulation and after taking a legal report by Vaish Associates, Liquidator/Applicant decided that Finquest holds the first priority charge and passed an order dated 19.02.2020 for the same. Though it was challenged before this Tribunal and the same was dismissed vide order dated 17.03.2020. Presently,

an appeal is pending before National Company Law Appellate Tribunal, against the order dated 17.03.2020.

9. The Applicant further submits that the following litigations are pending with respect to the Corporate Debtor:

Sr. No.	Forum and Case No.	Description
1.	<i>NCLT, Mumbai C.P.158/MB/2022</i>	<i>Company Petition filed by SFIO under s. 241 r/w s. 242(2)(m) r/s s. 246 r/w s. 339 of the Companies Act, 2013.</i>
2.	<i>NCLAT, New Delhi CA/AT/INS/897/2020</i>	<i>Appeal filed by JM Financial Asset Reconstruction Company Limited u/s 61(1) of the Code.</i>
3.	<i>NCLT, Mumbai M.A. 2829/2019</i>	<i>Application filed by the liquidator under s. 60(5) of the Code against Finquest Financial Solutions Pvt. Ltd.</i>
4.	<i>NCLT, Mumbai I.A. 1209/2021</i>	<i>Application filed by the liquidator u/s 54 and 60(5) of the Code.</i>
5.	<i>Court of Senior Civil Judge and JFMC, Nanjagud</i>	<i>Petition filed u/s 10(4) of Industrial Disputes Act for not following directions passed by Labour Court Mysuru by order dated 24.06.2017 for reinstatement of petitioner into service.</i>

10. The Applicant also submits that all the assets have been liquidated and there are no other assets to be distributed among stakeholders as per Regulation 38 of Liquidation Regulations. There are no substantial/material developments that could possibly take place to affect the non-existent assets of Corporate Debtor.

11. Further the Regulation 15 requires filing of progress reports which is to inform/update this Tribunal with respect to progress in lines of criteria laid down under the said regulation. The Applicant submits that the Liquidation process has culminated and the final report has been also filed along with the application for dissolution. He also submits that any further progress report would only add to the liquidation cost for which no separate corpus has been envisaged or set aside. If at all there requires any filing of progress report it would only be for namesake and an impractical exercise.
12. In such circumstances, the Applicant has filed the present application and prayed to dispense with filing of further progress reports in the matter of RTIL Limited starting from quarter ended on 31.03.2023 as the liquidation process is completed and the application for dissolution has been filed.

Findings and Order:

13. Heard the Applicant and perused the record.
14. We observe that the liquidator is required to prepare and submit report as per Regulation 5(1)(c) of Liquidation Regulations.
15. The Term Progress Report is defined under Regulation 2(g) of the Liquidation Regulations as under:

“(g) “Progress Report” means the quarterly report prepared in accordance with regulation 15”.

16. The Regulation 15 provides for particulars regarding the reporting of liquidation progress by the Liquidator of a Corporate Debtor. The Regulation is reproduced hereunder:

“15. Progress Report”

15. (1) The liquidator shall submit Progress Reports, in the format stipulated by the Board, to the Adjudicating Authority and the Board as under-

(a) the first Progress Report within fifteen days after the end of the quarter in which he is appointed;

(b) subsequent Progress Report(s) within fifteen days after the end of every quarter during which he acts as liquidator; and

Provided that if an insolvency professional ceases to act as a liquidator during the liquidation process, he shall file a Progress Report for the quarter up to the date of his so ceasing to act, within fifteen days of such cessation.

(2) A Progress Report shall provide all information relevant to liquidation for the quarter, including-

(a) appointment, tenure of appointment and cessation of appointment of professionals;

(b) a statement indicating progress in liquidation, including-

(i) settlement of list of stakeholders,

(ii) details of any property that remain to be sold and realized,

(iii) distribution made to the stakeholders, and

(iv) distribution of unsold property made to the stakeholders;

(c) details of fee or remuneration, including-

(i) the fee due to and received by the liquidator together with a description of the activities carried out by him,

(ii) the remuneration or fee paid to professionals appointed by the liquidator together with a description of activities carried out by them,

(iii) other expenses incurred by the liquidator, whether paid or not;

(d) developments in any material litigation, by or against the corporate debtor;

(e) filing of, and developments in applications for avoidance of transactions under Part II of the Code; and

(f) changes, if any, in estimated liquidation costs.

(3) A Progress Report shall enclose an account maintained by the liquidator showing-

- (a) his receipts and payments during the quarter; and
- (b) the cumulative amount of his receipts and payments since the liquidation commencement date.

(4) A Progress Report shall enclose a statement indicating any material change in expected realization of any property proposed to be sold, along with the basis for such change:

(5) The Progress Report for the fourth quarter of the financial year shall enclose audited accounts of the liquidator's receipts and payments for the financial year:

Provided that in case an insolvency professional ceases to act as liquidator, the audited accounts of his receipts and payments for that part of the financial year during which he has acted as liquidator, shall be enclosed with the Progress Report to be filed after cessation of his appointment.

17. A bare perusal of the above regulation shows that the very purpose of filing liquidation progress report is to inform/update the Adjudicating Authority regarding the material developments/progress following the criteria laid down in Regulation 15 in the liquidation process of the Corporate Debtor.
18. In this case, the Applicant sought to dispense with filing of further progress reports starting from quarter ended on 31.03.2023. However, the applicant besides making a prayer simplicitor, has not been able to cite any authority or precedence in this regard.
19. In view of the above, we are of the opinion that the primary objective of submitting the progress report is to maintain an oversight over the liquidator's conduct during the liquidation process, ensuring full compliance with the Code and the

Regulations. Therefore, this bench is of view that such dispensation cannot be granted, as the abovementioned Regulation serves the specific purpose and does not contain any provision to waive the filing of progress reports. Moreover, keeping in view the pending litigation mentioned in paragraph 9 of this order, it is imperative on the part of the Liquidator/Applicant to update the Adjudicating Authority on the progress of the said litigation.

20. Accordingly, the IA/2387/2023 is **dismissed**.

Sd/-

CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)

Sd/-

LAKSHMI GURUNG
(MEMBER JUDICIAL)

Arpan, LRA