



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.301

IA No./1230(AHM)2023 in  
C.P.(IB)/37(AHM)2017

**Order under Regulation 31A(11) IBBI r.w.**  
**Rule 11 of NCLT Rules**

**IN THE MATTER OF:**

Nitin Jain, Liquidator of  
PSL Limited

.....Applicant

**Order delivered on: 12/01/2024**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)  
Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-Sd-  
**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - I, AHMEDABAD**

**IA/1230(AHM)2023 in  
CP(IB)/37(AHM)2017**

An application under Regulation 31A(11) of IBBI  
(Liquidation Process) Regulations, 2016, r/w Rule 11 of  
NCLT Rules, 2016

In the matter of ***PSL Limited***

**NITIN JAIN**

LIQUIDATOR

**PSL LIMITED**

E-10A, Lower Ground Floor,

Kailash Colony

New Delhi - 110048

... Applicant

**Order Pronounced on 12.01.2024**

**CORAM:**

**SHAMMI KHAN, MEMBER (JUDICIAL)**

**SAMEER KAKAR, MEMBER (TECHNICAL)**

**APPEARANCE:**



For Applicant : Mr. Amar Vivek, Adv. a/w. Mr. Abhinav Tyagi, Adv.

**ORDER**

**Per: Bench.**

1. The present application is filed under Regulation 31A(11) of IBBI (Liquidation Process) Regulations, 2016, r/w Rule 11 of NCLT Rules, 2016 seeking replacement of the Applicant as the Liquidator and the appointment of AAA Insolvency Professionals LLP, a registered Insolvency Professional as the Liquidator of the Corporate Debtor, this application was filed on 08.11.2023.
  
2. The Application filed the present Application seeking the following relief(s):
  - A. Allow the Present Application;
  - B. Allow the replacement of Mr. Nitin Jain (Registration No. IBBI/IPA-001/IP-P-01562/2019 -2020/12462 with AAA Insolvency Professionals LLP, a registered Insolvency Professional (Registration No. IBBI/IPE-0002/IPA-1/2022- 23/50001) as the Liquidator of the Corporate Debtor in accordance with Liquidation Regulations 31A which states,  
*"Provided that where a liquidator is proposed to be replaced, he shall- (a) continue to work till his*



*replacement; and (b) be suitably remunerated for work performed till his replacement".*

C. Pass such other/further order(s) as this Hon'ble Tribunal may deem fit and proper.

D. Pass any other Order or relief as this Hon'ble Tribunal may deem fit and necessary in the interest of Justice.

3. **FACTS OF THE CASE ARE AS FOLLOWS:**

- I. The Corporate Debtor, a company incorporated on August 24, 1987, and duly registered under the Companies Act, 1956, engaging in financial services and intermediation, has submitted an Application pursuant to Section 10 of the Code, set in motion the initiation of the Corporate Insolvency Resolution Process (CIRP) due to its incapacity to discharge obligations to creditors.
- II. On 15.02.2019, this Hon'ble Tribunal ordered the application, initiating the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed IRP.
- III. Upon the appointment of the Insolvency Resolution Professional (IRP), the Committee of Creditors (CoC) was duly constituted on 16.03.2019. In the 5th CoC meeting on 22.08.2019, a resolution was passed with an 88.12% voting share, endorsing the replacement of the IRP and appointing the Applicant as the Resolution Professional (RP) for the Corporate



Debtor. Subsequently, This Tribunal, through its Order dated 30.08.2019, in I.A. No. 531 of 2019, formally designated the Applicant as the RP for the Corporate Debtor, in accordance with the CoC resolution.

- IV. Consequently, On 15.01.2020, the Applicant filed IA. No. 132 of 2020, requesting the commencement of the Corporate Debtor's liquidation. This Tribunal, vide order dated 11.09.2020, ordered liquidation and appointed the Applicant as the Liquidator.
- V. By means of its Order dated 11.09.2020, this Tribunal instructed the Applicant to facilitate the sale of the Corporate Debtor as a going concern. Subsequently, in compliance with Regulation 12 of the Liquidation Regulations, the Applicant issued a Public Announcement on 15.09.2020, inviting submissions of claims from the stakeholders of the Corporate Debtor.
- VI. The duration of 90 days stipulated under Regulation 32A (4) of the Liquidation Regulations elapsed on December 14, 2020. Subsequently, the Applicant submitted an application with reference number 1.A. No. 20 of 2021, seeking an extension of the 90-day Liquidation Period. This Tribunal, through its Order dated 12.01.2021, granted approval for the aforementioned application,



thereby extending the Liquidation Period by an additional 90 days commencing from 12.01.2021.

- VII. Summon dated 15.01.2021 were received from the Enforcement Directorate (herein referred as ED) by the Applicant pertaining to some clarification sought by ED regarding to investigations under PMLA Act, 2002 relating to Corporate Debtor, Aggrieved by the actions of the ED the Application filed a Writ Petition before the High Court of Delhi where the High Court directed the Applicant to proceed as per the provisions of the IBC Code, 2016.
- VIII. In furtherance of same, The Applicant filed an application under Section 35(1)(n) of the Code read with Regulation 44 (2) of Liquidation Process, bearing L.A. No. 391/2021 seeking exclusion of period between 25.01.2021 to 17.03.2021. Vide Order dated 08.09.2021 passed by this Tribunal in IA No. 391/2021, this Tribunal allowed the Application and exclude the period of 51 days. Further this Tribunal granted extension of 180 days from 13.04.2021 for concluding the sale of the Corporate Debtor as a going concern.
- IX. Applicant received a Provisional Attachment Order No. 07/2021 dated 02.12.2021 from ED, provisionally attaching movable and immovable Assets of the Corporate Debtor for a period of 180



days. The Hon'ble High Court of Delhi on 15.12.2021 in W.P. (C) No.- 3260/2021 held that the Applicant is entitled to proceed with the Liquidation Process in accordance with the provisions of the Code. and restrained ED from taking any action, coercive or otherwise, against the Liquidation estate of the Corporate Debtor.

- X. The Applicant filed a Miscellaneous Application (CM No. 9111/2022) seeking a stay on proceedings before the Adjudicating Authority of the Prevention of Money Laundering Act (PMLA) under OC No. 1594/2021 related to confirming the Provisional Attachment Order dated 02.12.2021. The Delhi High Court granted a stay on the Order dated 02.12.2021. The auction purchaser's counsel informed the Court of the intention to withdraw its bid from the e-auction process. Simultaneously, the liquidator sought permission to proceed with the sale of assets not covered by the Provisional Attachment Order dated 02.12.2021. The Delhi High Court, through its Order dated 02.05.2022, approved the liquidator to proceed with the sale of unattached assets, permitting the utilization of the sale proceeds to compensate unpaid workmen and employees. Subsequently, the liquidator conducted the sale of assets not covered by the Provisional



Attachment Order on 03.06.2022, and the sale process was successfully completed.

- XI. The Applicant herein preferred an Application bearing IA No. 09/2022 seeking exclusion of the time period initiating from 18.03.2021 till 02.03.2021 being the period during which the Applicant could not proceed with distribution/realisation of assets of the Corporate Debtor. The said Application is pending adjudication before this Tribunal.
- XII. Meanwhile, The Successful Auction Purchaser filed IA No. 240(AHM)/2022, seeking withdrawal from the bid and the return of the Earnest Money deposit of Rs. 35 Crores. The Hon'ble Bench granted this request on 02.11.2022. The Applicant appealed this decision, but the Hon'ble Appellate Tribunal, in CA(AT)1390/2022, upheld the withdrawal of the Auction Purchaser.
- XIII. In response, the Applicant filed CM APPL. 8085/2023 in LPA 513/2021, seeking specific reliefs. The Delhi High Court, on 01.02.2023, granted the following:
- i. Approval to proceed with the sale of the Corporate Debtor's assets as per the Insolvency and Bankruptcy Code, 2016.
  - ii. Direction for the sale proceeds (Rs. 274.60 Cr) from the provisionally attached assets to be held



in a designated account with a nationalized bank, with a lien in favor of the Enforcement Directorate.

iii. Instruction that any surplus funds beyond Rs. 274.60 crore from the liquidation sale of the Corporate Debtor's assets be deposited in the Liquidation Bank Account, established at the commencement of the Liquidation Process, and distributed among stakeholders following the Insolvency and Bankruptcy Code, 2016, and IBBI Liquidation Regulations.

XIV. In the 26th SCC Meeting on June 20, 2023, the Applicant addressed the need for valuers to assess the Corporate Debtor's assets. Following the valuation, discussions with SCC Members ensued regarding the Liquidation value. Additionally, the Applicant deliberated on the E-Auction process for the Corporate Debtor, focusing on both "Core-Operational Assets" and "Non-Core Assets."

XV. The applicant issued a Sale Notice on 04.07.2023 for the sale of the Corporate Debtor's assets. Subsequently, in the 27th SCC meeting on 11.07.2023, the applicant informed members that the Sale Notice complied with the 26th SCC meeting. However, the Sale Notices did not contemplate the sale of the Corporate Debtor as a going concern. Despite this, the applicant received



proposals from Jindal India Limited and B.C. Jindal Group expressing interest in purchasing the Corporate Debtor as a going concern. The proposal's terms presented a lucrative opportunity for stakeholders to realize funds quickly. The SCC discussed the liquidation value, and it was noted that the offered value for selling the Core Asset & Financial Asset as a going concern was Rs. 22 crores higher than the average liquidation value.

- XVI. In accordance with deliberations during the 27th SCC Meeting, the Applicant rescinded the Sale Notice on 17.07.2023 and subsequently issued a new Sale Notice on 30.08.2023.
- XVII. Following the 27th SCC, the Applicant planned to publish a Sale Notice for the sale of Core-Assets and Financial Assets of the Corporate Debtor. However, a prospective buyer withdrew their proposal to acquire the Corporate Debtor as a going concern. This withdrawal was communicated before the publication of the Sale Notice. In the 28th Meeting, the SCC discussed this development, resolving that the Liquidator should proceed as per the guidelines established in the 26th Meeting of SCC.
- XVIII. Due to the intricate and complex nature of the case, the Liquidation Process of the Corporate Debtor necessitates a considerable amount of time and the active involvement of the Applicant. However, owing



to personal problems, it is anticipated that maintaining the same level of dedication as demonstrated over the past three years since the initiation of the Corporate Debtor's Liquidation may be difficult.

- XIX. The Liquidator has attached minutes of SCC along with the application at Page no. 432. An abstract of the minutes is reproduced below:

*“The Liquidator in furtherance to the discussions held in the above-mentioned agenda items mentioned that he has been working for this case from nearly last 4 years. However, due to some personal difficulty arising on account of health issues of his mother, who is not well for last few months and suffering from multiple medical issues, he may not be able to dedicatedly work in this case as PSL Limited is a complex and large case which requires time. Hence, in the interest of stakeholders the Liquidator gave a proposal that after the amendment notified in the IBBI (Insolvency Professionals) Regulation 2016 on 28/09/2022, now the Insolvency Professional Entity (IPE) can also act as an IP (Insolvency Professional). In this matter the support services from the beginning were availed from the AAA Insolvency Professionals, which is one of the Largest Insolvency Professional Entity and Mr. Anil Goel the chairman of AAAIP has always been involved in this case.”*

as the resolution, was put forth and approved by a voting percentage of 81.4%.

4. It is submitted, that Applicant is not able to continue as Liquidator due to personal reasons and in light of the aforementioned circumstances, pursuant to SCC 28<sup>th</sup>



Meeting Resolved to appoint AAA Insolvency Professional LLP as the Liquidator of Corporate debtor in place of Applicant.

5. We have heard the Counsel for the Applicant and on perusal of the documents submitted we have observed the following :

a. The Applicant is unable to continue as liquidator of the corporate Debtor due to his personal issues, hence the Applicant proposed the name of Insolvency Professional Entity namely, AAA Insolvency Professional LLP to act Liquidator of Corporate Debtor. The name of Insolvency Professional Entity is proposed in light of recent amendments notified on 28.09.2022 in IBBI regulation allowing Insolvency Professional Entity to act as Insolvency Professional.

b. The SCC in its 28<sup>th</sup> Meeting considered the said proposal and The relevant Resolution is provided hereinbelow:

***"RESOLVED THAT*** AAA Insolvency Professionals LLP, a registered Insolvency Professional (Registration No. IBBI/IPE- 0002/IPA-1/2022-23/50001) be and is hereby appointed as the Liquidator by replacing Liquidator, Mr. Nitin Jain, in the matter of PSL Limited - In Liquidation as per



*the section 31 A (11) of the Insolvency & Bankruptcy Code 2016 Inserted by Notification No. IBBI/2022-23/GN/REG094, dated 16th September, 2022 (w.e.f. 16-09-2022). which reads as follows:- [(11) The consultation committee, after recording the reasons, may by a majority vote of not less sixty-six per cent., propose to replace the liquidator and shall file an application, after obtaining the written consent of the proposed liquidator in Form AA of the Schedule II, before the Adjudicating Authority for replacement of the liquidator: Provided that where a liquidator is proposed to be replaced, he shall- (a) continue to work till his replacement; and (b) be suitably remunerated for work performed till his replacement.”*

to appoint AAA Insolvency LLP as Liquidator of Corporate Debtor in place of applicant by a voting percentage of 81.14%.

- c. It is essential to emphasize that in accordance with the statutory mandate outlined in Regulation 31A of the IBBI (Liquidation Process) Regulations, 2016, a mandatory Written Consent Form, as stipulated in Form AA of Schedule II, is a prerequisite for the proposed liquidator's appointment, in addition to the requisite 66%



voting percentage to pass the resolution. This form must be submitted before the Adjudicating Authority for the purpose of replacing the liquidator. It is noteworthy that such written consent has not been attached in the present application.

d. Moreover, during its 28th Meeting, the SCC determined to designate AAA Insolvency Professional LLP as a substitute for the Applicant, as suggested by the Applicant. In light of this resolution, it is imperative to consider the provision outlined in Regulation 3 of the IBBI (Liquidation Process) Regulations, 2016, which delineates the criteria for eligibility for the appointment as a Liquidator, herein reproduced as below :

**“3. Eligibility for appointment as liquidator.**

*(1) An insolvency professional shall be eligible to be appointed as a liquidator if he, and every partner or director of the insolvency professional entity of which he is a partner or director, is independent of the corporate debtor.*

*Explanation– A person shall be considered independent of the corporate debtor, if he-*

*(a) is eligible to be appointed as an independent director on the board of the*



*corporate debtor under section 149 of the Companies Act, 2013 (18 of 2013), where the corporate debtor is a company;*

*(b) is not a related party of the corporate debtor; or*

*(c) has not been an employee or proprietor or a partner:*

*(i) of a firm of auditors or 7 [secretarial auditors] or cost auditors of the corporate debtor; or*

*(ii) of a legal or a consulting firm, that has or had any transaction with the corporate debtor contributing ten per cent or more of the gross turnover of such firm, in the last three financial years.*

*(2) A liquidator shall disclose the existence of any pecuniary or personal relationship with the concerned corporate debtor or any of its stakeholders as soon as he becomes aware of it, to the Board and the Adjudicating Authority.*

*(3) An insolvency professional shall not continue as a liquidator if the insolvency professional entity of which he is a director or partner, or any other partner or director of such insolvency professional entity represents any other stakeholder in the same liquidation process.”*



Given that AAA Insolvency Professional LLP rendered services to the Applicant and, by extension, to the Corporate Debtor, the plain interpretation of the aforementioned regulation indicates the presence of a pecuniary relationship between AAA Insolvency Professional LLP and the Applicant, and consequently, with the Corporate Debtor. This renders AAA Insolvency Professional LLP ineligible for appointment as the Liquidator.

- e. Notwithstanding, taking into account the individual intricacies of the Applicant, who is unable to persist in rendering services as the Liquidator, and further, the SCC has resolved in its 28th meeting to designate an alternative Liquidator in lieu of the Applicant.
6. In view of the above we partly allow the application and appoint **MAVENT RESTRUCTURING SERVICES LLP (Registration No. IBBI/IPE-0154/IPA-3/2023-24/50058)** as the Liquidator of the Corporate Debtor.
7. Registry is directed to communicate the copy of this order to **MAVENT RESTRUCTURING SERVICES LLP (Registration No. IBBI/IPE-0154/IPA-3/2023-**



**24/50058)** bearing **Email id**  
(*caakhilahuja[at]gmail[dot]com*) and **Address** (B-29, LGF,  
LAJPAT NAGAR-III, New Delhi 110024) and to **IBBI**.

8. Outgoing Liquidator is released from the assignment and is directed to hand over the entire charge, papers, documents, custody of assets and legal documentation to the new Liquidator within a period of 7 days of this order.
9. New Liquidator is directed to complete the liquidation process expeditiously.
10. Accordingly, with these observations the present application is disposed of accordingly.

**-Sd-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

**-Sd-**  
**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

Anish Keshari/LRA