

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT – II

Item No. 2
(IB)-1717(ND)2018
IA-4911/2020

IN THE MATTER OF:

M/s. Italian Exposition Pvt. Ltd.

...

Applicant/Petitioner

Under Section: 10 of IBC, 2016

Order delivered on 27.09.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (J)

SHRI L.N. GUPTA,
HON'BLE MEMBER (T)

PRESENT:

ORDER

Order is pronounced in an open Court today.

Sd/-
(L. N. GUPTA)
MEMBER (T)

Sd/-
(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

This Application is filed by Mr. Satinder Kapur, the Liquidator of M/s Italian Exposition Private Limited (hereinafter referred to as “**Applicant**”) under Section 54 of the Insolvency and Bankruptcy Code, 2016, for seeking the following main reliefs:

- i. To take on record the final report and the compliance certificate under Form H of the Liquidation Regulations and pass an order under Section 54(2) of the Code for dissolution of the Corporate Debtor;*
- ii. To order the dissolution of the Company and direct the Registrar of Companies to stroke the name of the Corporate Debtor from the register of Companies; and*
- iii. Pass any other order or further orders as this Hon’ble Tribunal deems think fit and proper.”*

2. To put succinctly, facts of the case are that the Corporate Debtor, M/s Italian Expositions Private Limited had filed an application bearing no IB-1717(ND)/2018 under Section 10 of IBC 2016 for initiation of CIR Process against itself. That vide Order dated 20.02.2019, this Adjudicating Authority had initiated the CIR Process against the Corporate Debtor and appointed Mr. Satinder Kapur as the Interim Resolution Professional of the Corporate Debtor. That further, vide order dated 15.07.2019 Liquidation proceeding of the Corporate Debtor were initiated and the Applicant was appointed as the Liquidator of the Corporate Debtor.

3. That vide order dated 07.04.2021, the following clarifications were sought from the Applicant :

“3. The Applicant is directed to disclose whether any application under Section 43,66 of IBC 2016, or under any other provision of law pending in the current matter.

4. That the Applicant is also directed to disclose whether any Investigation, Proceeding or Enquiry is pending against the Corporate Debtor under any law.

5. That the Applicant has filed the details of the Liquidation estate and the manner in which the distribution was made. The details of distribution of proceeds as per the Form-H annexed with the Application is reproduced below :

4. (a) Liquidation value of the liquidation estate: **Rs. 4,45,226/-**

(b) Amount realized from sale of liquidation estate: **The liquidation estate merely comprised of cash available in the bank account i.e Rs. 4,45,226/-**

(c) The amounts distributed to stakeholders as per section 52 or 53 of Code are as under:

S.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			Rs. 3,69,087/-	100%	
2	(a): Liquidation Costs			Rs. 4,41,290/-		
	Liquidator's Fees	Rs. 4,00,000/-		Rs. 4,00,000/-	100%	
	Advertisement Expenses	Rs. 14,700/-		Rs. 14,700/-	100%	
	Fees paid to professional engaged	Rs. 10,000/-		Rs. 10,000/-	100%	
	Miscellaneous Expenses	Rs. 16,000/-		Rs. 16,000/-	100%	
	Banking Fees	Rs. 590/-		Rs. 590/-	100%	

TOTAL:				Rs. 8,10,377/-		
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7. From the perusal of the Form 'H', it is observed that the Liquidation estate of the Corporate Debtor comprised of the Bank Balance of Rs.4,45,226 only. It is therefore, not clear from the averments how an amount of Rs. 8,10,377 could be distributed when the asset of the Corporate Debtor was limited to Rs.4,45,226.

9. Further, it is observed that the entire amount of liquidation estate of Rs. 4,45,226 is spent on the CIRP, Liquidation and other miscellaneous expenses. The Applicant is directed to provide breakup of the CIRP and the Liquidation costs.”

4. That in response to the clarifications sought vide order dated 07.04.2021, the Applicant/Liquidator has filed its Additional Affidavit dated 18.06.2021, the scanned copy of which is reproduced below:

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH-II
IA 4911/ND/2020/
IN
CP (IB) No. 1717 (ND) of 2018

IN THE MATTER OF LIQUIDATION OF:
ITALIAN EXPOSITION PRIVATE LIMITED

....Corporate Debtor

AND IN THE MATTER OF:
MR. SATINDER KAPUR

.....Liquidator

ADDITIONAL AFFIDAVIT IN COMPLIANCE WITH THE ORDER OF THE HON'BLE NCLT DATED 07.04.2021

I, Satinder Kapur, S/o Late Shri Shyam Sundar Kapur, R/o C-39, Anand Niketan, New Delhi-110021, the Liquidator of Italian Exposition Private Limited (Corporate Debtor), do hereby solemnly and sincerely affirm and state as follows:

1. I am the Liquidator of Italian Exposition Private Limited ("Corporate Debtor") and am well acquainted with the facts of the case and hence I am competent to affirm this affidavit.
2. This Affidavit is being filed in compliance with the Hon'ble NCLT's order dated 7 April 2021 whereby certain clarifications were sought regarding the liquidation process. This order was passed in

pursuance of the dissolution application moved on behalf of the Corporate Debtor under section 54(1) of the Insolvency and Bankruptcy Code, 2016 ("Code") and Regulation 45(3)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

3. The orders on dissolution application had been reserved on 24 March 2021 and were de-reserved by way of the 7 April Order.

4. The Hon'ble Tribunal has sought my clarifications on the following issues:

A. Whether any application under Section 43,66 of IBC 2016, or under any other provision of law pending in the current matter?

I hereby declare that there are no applications that are pending under Sections 43,66 of the Code or under any other provision of law in the current matter.

B. Whether any Investigation, Proceeding on Enquiry is pending against the Corporate Debtor under any law?

I hereby declare that there is no Investigation, Proceeding or Enquiry pending against the Corporate Debtor under any law.

C. Discrepancy in the details of distribution of assets from the liquidation estate:

The liquidation estate merely comprised of the cash available in the Corporate Debtor's bank account i.e. Rs. 4,45,226/- as on the date of initiation of liquidation.

In the Form-H filed along with the Dissolution Application, the following table had been inserted to give an account of the entire distribution of assets from the liquidation estate:

AMENDED TABLE IN POINT 4(c) of FORM-H

S.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): Liquidation Costs					
	Liquidator's Fees	Rs. 4,00,000/-		Rs. 4,00,000/-	100%	
	Advertisement Expenses	Rs. 14,700/-		Rs. 14,700/-	100%	
	Fees paid to professional engaged	Rs. 10,000/-		Rs. 10,000/-	100%	
	Miscellaneous Expenses	Rs. 16,000/-		Rs. 16,000/-	100%	
	Banking Fees	Rs. 590/-		Rs. 590/-	100%	
TOTAL:				Rs. 4,41,290/-		

Please note that the remaining amount of Rs. 3,618 was deposited with the IBBI Corporate Liquidation Account after deduction of bank charges for closure of the bank account.

D. Details of breakup of the CIRP and Liquidation Costs:

The liquidation estate comprised of the cash balance of Rs. 4,45,226/- and the liquidation costs amounted to Rs. 4,41,290/-. The liquidator's fee of Rs. 50,000/- per month was fixed by the Committee of Creditors in its meeting held on 17 June 2019. The breakup of the liquidation costs is as follows:

Description	Amount (in INR)
Liquidator's Fees	4,00,000
Advertisement Expenses	14,700
Fees paid to professional engaged	10,000
Miscellaneous Expenses	16,000
Banking Fees	590
Total	4,41,290

were not paid out of the liquidation estate. The RP's fee of Rs. 50,000/- per month was fixed by the Committee of Creditors in its meeting held on 8 April 2019. The breakup of the CIRP Costs is as follows:

Description	Amount (in INR)
Fees paid to RP and IRP	2,50,000
Advertisement Expenses	10,087
Fees paid to professionals engaged	1,09,000
Total	3,69,087

5. It is humbly prayed that the Hon'ble Tribunal will take the above clarifications on record and allow the dissolution of the Corporate Debtor.
6. I submit that the contents of this Additional Affidavit are true, drafted on my instructions by my counsel. I have gone through the contents and the same are true and correct to the best of my knowledge and belief.



Deponent

VERIFICATION

I, Satinder Kapur, S/o Late Shri Shyam Sundar Kapur, R/o C-39, Anand Niketan, New Delhi-110021, the Liquidator of Italian Exposition Private Limited, do hereby solemnly and sincerely affirm and declare that the contents of paragraphs 1 to 6 are true and correct to the best of my knowledge, information and belief and based on the documents believed to be true by me.

Solemnly affirmed



Deponent

Place: New Delhi

Date : 18 June, 2021

5. We have heard the submissions made by the Applicant, perused the Application and the Additional Affidavit filed in response to the clarifications sought by this Bench. The Applicant by way of the Additional Affidavit has declared that neither any investigation/proceeding/enquiry is pending against the Corporate Debtor nor any case under section 43 and 66 of IBC is pending against the Corporate Debtor.

6. As regards the discrepancy noticed in the Form 'H', as to *"how an amount of Rs.8,10,377/- could be distributed when the asset of the Corporate Debtor was limited to Rs.4,45,226/-"*, it is replied by the Applicant/Liquidator that the Liquidator estate merely comprised of the Bank Balance of Rs.4,45,266/-only, out of which Rs.4,41,290/- were distributed to various stakeholders towards their claims and the balance amount of Rs.3618/- was deposited in the IBBI Corporate Liquidation Account after deduction of the bank charges for closure of the bank account. It is added that the amount of Rs 3,69,087/- paid as CIRP costs was not paid out of the Liquidation estate, though it was shown in the table to give an overall view of the CIRP as well as liquidation costs. He has now submitted the revised table as shown in para 'c' of the Additional affidavit reproduced above.

7. The aforesaid submissions depict that that the Assets of the Corporate Debtor have been duly liquidated and the proceeds are distributed. Further, there being no pending investigation/proceedings or enquiry against the Corporate Debtor, there is no impediment in dissolving the Corporate Debtor.

8. **Accordingly, we allow the application. The Corporate Debtor is dissolved with immediate effect.**

9. The Registry/Court officer and Applicant are directed to forward a copy of this order to RoC Delhi and Haryana for updating the status in the Master data of the Corporate Debtor accordingly.

Sd/-

(L. N. Gupta)
Member (T)

Sd/-

(Abni Ranjan Kumar Sinha)
Member (J)