NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(through web-based video conferencing platform)

CA No. 584/2019
In
CP (IB) No. 50/Chd/Hry/2017
(Admitted Matter)

Under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 38(1) of IBBI (Liquidation Process) Regulations, 2016

In the matter of:

Sahara Fincon Pvt. Ltd. …Financial Creditor

Versus

Tirupati Ceramics Ltd. …Corporate Debtor

And in the matter of CA No. 584/2019:-

Amit Sharma
S-50, Pandav Nagar
Delhi-110092 …Applicant/Liquidator

Order delivered on: 24.11.2020

Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)
HON'BLE MR. RAGHU NAYYAR, MEMBER (TECHNICAL)

Present through Video Conferencing:

For the Applicant-Liquidator : 1. Mr. Balwinder S. Kalsi, Advocate
2. Mr. Amit Sharma, Liquidator in person

Per: Ajay Kumar Vatsavayi, Member (Judicial)

ORDER

CA No. 584/2019 in CP (IB) No. 50/Chd/Hry/2017 is filed by Mr. Amit Sharma (hereinafter referred to as 'Applicant/Liquidator') of M/s. Tirupati Ceramics Ltd. ('Respondent/Corporate Debtor) under Section 54 of the IBC, 2016 and under Regulation 38(1) of IBBI (Liquidation Process) Regulations, 2016 for dissolution of the Corporate Debtor i.e. M/s Tirupati Ceramics Ltd.

2. The main Company Petition bearing CP (IB) No. 50/Chd/Hry/2017 filed by M/s. Sahara Fincon Pvt. Ltd. under Section 7 of the IBC, 2016, read with Rule 4 of I&B (Application to Adjudicating Authority) Rules, 2016 was admitted by the Adjudicating Authority, vide order dated 29.09.2017 by initiating CIRP and declaring moratorium. Vide order dated 11.10.2017, Mr. Amit Sharma bearing Registration No. IBBI/IPA-002/IP-N00172/2017-18/10442 was appointed as Interim Resolution Professional (IRP) in the meeting of CoC held on 11.11.2017, the IRP was confirmed as RP and further, vide order dated 22.03.2018, the Adjudicating Authority appointed Mr. Amit Sharma, the existing RP, to act as Liquidator.

3. Thereafter, the Liquidator made the public announcement of liquidation on 26.03.2018 in Form B in two newspapers i.e. Business Standard in English and in Hindi, Delhi NCR Edition, both dated 26.03.2018 and invited claims from the Financial/Operational Creditors and workers/employees of the Company in terms of the IBBI (Liquidation Process) Regulations, 2016 (Annexure A-6). In compliance of Regulation 12(3)(c), a copy of the public announcement in Form B (Annexure A-6) was also uploaded on the website of

the IBBI. Further, it is stated that the order for initiation of liquidation of the corporate debtor was sent to the Registrar of Companies, Punjab by way of letter dated 26.03.2018 through speed post and has also been filed under Form INC-28 on 11.04.2018 vide SRN No. G83247254 (Annexure A-2 & A-3) and in its effect, the status of the company has been changed as 'under liquidation' as per Section 33(1)(b)(iii). Also, the same intimation was communicated to all the statutory authorities by the liquidator as per the list attached as Annexure A-5.

4. Pursuant to Regulation 35 of the Liquidation Regulations, the Liquidator appointed two registered valuers viz. Gagan Ghai, Crest Capital Group Pvt. Ltd and Harbans Lal Jham, Mr. Rajendra Srivastava of M/s P & A Valuetech Pvt. Ltd. respectively for valuation of assets of the Corporate Debtor. On the basis of reports, the fair value arrived by them was ₹6,33,76,975/- and the liquidation value was ₹5,46,41,229/- It is further submitted that valuation report did not have any deviation.

5. In terms of Regulation 31 of the Liquidation Regulations, the Liquidator has collated and submitted a revised list of stakeholders to the Adjudicating Authority based on the claims received as per the last date of submission of the claim as on 29.05.2019 attached as Annexure A-9. As per the list of stakeholders, there were total 09 unsecured Financial Creditors out of which, claims of 02 Financial Creditors amounting to ₹4,83,27,139/- were admitted by the liquidator. Apart from this, the Liquidator has also received claims from the Operational Creditors of the Corporate Debtor, including government dues. It is also stated that the corporate debtor has no secured creditors.

6. As per the requirement of Regulation 13 of the Liquidation Regulations, the Liquidator has already submitted the preliminary report to this Adjudicating Authority vide Diary No. 1664 dated 18.05.2018 (Annexure A-8) containing the following details: -

- the capital structure of the Corporate Debtor;
- the estimates of its assets and liabilities as on the liquidation commencement date based on the books of the Corporate Debtor;
- the proposed plan of action for carrying out the liquidation, including the timeline within which the liquidation proceedings is proposed to be carried out; and
- the estimated liquidation costs.

7. As per Regulation 34 of the Liquidation Regulations, the Liquidator submitted the asset memorandum on 18.05.2018 vide Diary No. 1663, which inter alia contained the following information:

- the value of the assets, valued in accordance with Regulation 35;
- intended manner of sale of the assets of the Corporate Debtor in accordance with Regulation 32, along with reasons thereof;
- the intended mode of sale and reasons for the same in accordance with Regulation 33; and
- the expected amount of realization from such sale.

8. Accordingly, as per Regulation 15 of the Liquidation Regulations, the Liquidator has submitted the First Progress Report for the period 22.03.2018 to 31.03.2018 on 10.04.2018 vide Diary No. 1083, detailing all the progress and relevant information, including but not limited to the following:

- the fee due to and received by the Liquidator, together with a description of the activities carried out by him;
- the fee paid to professionals appointed by the Liquidator, together with a description of activities carried out by them; and
- other expenses incurred by the Liquidator.

9. It is submitted that the assets of the Corporate Debtor have been sold through e-auctions conducted on 10.07.2018 for Land and Building and on 16.08.2018 for Scrap of P & M, Office Equipment and Furniture etc. through platform of www.bankeauctions.com. It is stated that the land and building was realised at a value of ₹18,76,00,000/- and Scrap of P & M, Office Equipment and Furniture etc. was realised at a value of ₹17,65,000/-. In terms of Regulation 36 of the Liquidation Regulations, the Liquidator has filed two Asset Sale Reports on 30.07.2018 and 10.09.2018 (Diary No. 2743 and 3405) respectively. Copy of the sale notices as published on 07.06.2018 and 27.07.2018 are attached as Annexure A-14 & A-15 and Asset Sale Reports dated 28.07.2018 & 07.09.2018 are attached at A-16 of the application.

10. It is also submitted that as per Regulation 44 of the Regulations, no application for avoidance of transactions under Chapter III of Part II of the Code is pending before the Adjudicating Authority.

11. As per Regulation 45 of the Regulations, the liquidator has filed final report dated 25.07.2019 (Annexure A-17) along with the application and compliance certificate in Form H vide Dy. No. 3626 dt.15.10.2019 (Annexure A-22). Details of the amount available for final distribution as per form H in terms of Section 53 of the Code, 2016 is mentioned below:

(Amount in lakh)

Sl. No.	**Stakeholders under section 53(1)**	**Amount claimed**	**Amount admitted**	**Amount Distributed**	**Amount Distributed to Amount claimed (%)**	**Remarks**
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*	*(7)*
1	*CIRP Costs*	*5,20,461*	*5,20,461*	*5,20,461*	*100%*	
2	*Liquidation Costs*	*1,08,27,458*	*1,08,27,458*	*1,08,27,458*	*100%*	
3	*Unsecured Financial Creditors (2Nos)*	*4,83,35,958*	*4,83,27,139*	*4,83,27,139*	*99.98%*	
4	*Operational Creditors (Govt Dues)*	*6,47,74,300*	*6,38,27,607*	*6,38,27,607*	*99.54%*	
5	*Other stakeholders*	*35,37,822*	*34,32,876*	*34,32,876*	*97.03%*	
6	*Distribution to shareholders for 1829081*		*1,51,00,893*	*1,51,00,893*		
Total						

12. It is submitted by the liquidator that after settlement of the claims, a total amount of ₹4,54,84,145/- is available with the liquidator in the liquidation account due to non-filing of claims by remaining stakeholders or rejection of claims by the liquidator by reason of deficiency, as per the details mentioned in page 10 of the application.

13**.** Also, it is stated that the buyer of the liquidated assets had deducted ₹18,76,000/- & TCS @1% under Section 206 of ITA and the said amount is refundable subject to the provision of the IT Act. Accordingly, the applicant filed the ITR on 31.10.2019 claiming the same and had received an amount of ₹19,41,660/- (including interest of ₹65,660) on 01.06.2020 in the liquidation bank account with ICICI bank Ltd. which has been deposited in the Company Liquidation Account known as IBBI-Corporate Liquidation Account as per regulation 46 of the regulations. The copy of the IBBI acknowledgment letter along with Form–I is attached as Annexure A-3 (Dy. No. 00659 dt.31.07.2020).

14. Further it is submitted that since all the assets of the corporate debtor have already been liquidated and that no asset is left for realisation and all other requirements are already completed, the remaining amount shall be directed to be deposited in the Company Liquidation Account in the Public Account of India.

15. It is submitted that since the Corporate Debtor has been liquidated successfully and the realized amount has been distributed to the stakeholders as per Section 53 of the Code read with Regulation 42 of the Liquidation Regulations, the liquidation proceedings are construed to be concluded, the instant application is being made for dissolution of the Corporate Debtor.

16. Heard Mr. Balwinder S. Kalsi, advocate for the Liquidator and Mr. Amit Sharma, learned Liquidator. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

17. By order 23.09.2019, the liquidator was directed to pay the undistributed amount of liquidation proceeds to the Company Liquidation Account in the Public Account of India pursuant to Regulation 46 of the Regulations. Accordingly, the liquidator deposited an amount of ₹4,55,66,705/- towards undistributed amount through a) cheque no.000711 dt.09.01.2020 for ₹4,54,84,145/- drawn on ICICI Bank Limited, Janpath Branch, New Delhi favouring "IBBI –Corporate Liquidation Account no2254005800000015 and b)

₹82,560/- through NEFT reference no.000081508036 dt.20.01.2020. Copy of Form-I is enclosed as Annexure IV (Dy. No. 982 dt.05.02.2020)

18. The liquidator further submitted that an amount of ₹56,444.67/- (as on Jan, 2020) is kept in the liquidation account maintained by the liquidator for remaining liquidation expenses and thereafter amount, if any remaining, shall be deposited in the bank account maintained with IBBI after receipt of final dissolution order. The copy of the ICICI bank account statement and acknowledgment letter issued by IBBI are enclosed as Annexure IV (colly) (Diary No. 982 dated 05.02.2020).

19. When the matter was listed on 27.10.2020, the liquidator was directed to file a short affidavit indicating the amount deposited in the Liquidation account maintained with IBBI and the balance amount available.

20. In compliance of the aforesaid order, the liquidator filed compliance affidavit dated 02.11.2020 (Dy. No.024 dt.04.11.2020) confirming that after depositing the entire available amount in the liquidation account, the net balance of ₹35,987.67/- is left in the company's liquidation account towards remaining/provisional liquidation expenses of the liquidator till dissolution of the corporate debtor and after payment of the said amount, NIL balance will be available with the liquidator who undertakes to submit the details of all the expenses after dissolution to IBBI and to the Hon'ble Adjudicating Authority and close the account after depositing the balance, if any remaining with the liquidator in the liquidation bank account.

21. Further in pursuance of Regulation 46 (5), the liquidator, has again submitted the details of undistributed amount along with the details of deposits made into the Corporate Liquidation Account in Form –I with IBBI, a

copy of which is enclosed as Annexure V (Diary No. 982 dated 05.02.2020) and also as Annexure A-3 (Dy. No. 00659 dt.31.07.2020).

22. The above facts and circumstances of the case, have established that due process of Liquidation, as per extant provisions, was followed by the Liquidator to liquidate the assets of Company and the realized amounts were also distributed to the respective claimants. Therefore, the liquidation process was deemed to have been completed under Chapter III of Part II of Code, and thus it would be just and appropriate for the Adjudicating Authority to dissolve the Company, by directing the Liquidator to close the Liquidation Account and other accounts of the Company, on receipt of this order. No party is going to be affected by dissolving the company.

23. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54 of the Code, the Interim Application bearing CA No.584/2019 in CP (IB) No.50/Chd/Hry/2017 is disposed of with the following directions:

(i) M/s. Tirupati Ceremics Limted, the Corporate Debtor, is hereby dissolved with immediate effect;

(ii) The Liquidator is permitted to close the pending Liquidation Bank Account within three weeks from the date of receipt of copy of this order.

(iii) The Registry is directed to forward a copy of this order to the Registrar of Companies, Punjab, Haryana and Chandigarh within a period of two weeks from today;

(iv) The learned Liquidator is also directed to forward copies of this order to all other statutory authorities connected with the affairs of the Company.

(v) The liquidator is discharged.

(vi) CP (IB) No.50/Chd/Hry/2017 also stands disposed of.

Sd/-

(Raghu Nayyar)
Member (Technical)

(Ajay Kumar Vatsavayi)
Member (Judicial)

November 24th, 2020
Yashpal