

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -II)
KOLKATA**

**IA(IBC)/1035(KB)2022
in
CP(IB)/1342(KB)2018**

*Under sections 54(2) of the Insolvency & Bankruptcy Code, 2016
read with regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016*

In the matter of:

Jai Balaji Industries Limited

....Operational Creditor

Versus

SPS Steels Limited
(CIN: U27109WB2003PLC096537)

.... Corporate Debtor

And

In the matter of:

Mr. Nitesh Kumar More,
Liquidator of SPS Steels Limited

... Applicant

Order reserved on: 09/10/2023

Order pronounced on: 20/11/2023

Coram:

Smt. Bidisha Banerjee	:	Member (Judicial)
Shri Arvind Devanathan	:	Member (Technical)

Appearances (through hybrid mode):

For Liquidator	:	Mr. Saurav Jain, Adv.
----------------	----------	-----------------------

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/1035(KB)2022** is an application filed u/s. 54(2) of the Insolvency and Bankruptcy Code, 2016 (“**IBC 2016**”) read with regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016 (“**Liquidation Process Regulations**”) by the Liquidator of **SPS Steels Limited**, the Corporate Debtor, praying for following reliefs: -
 - (a) *The Hon’ble Tribunal to dissolve the corporate debtor under Section 54(2) of IBC 2016; or*
 - (b) *To pass an order to dissolve the corporate debtor from the date of order passed by the Hon’ble NCLT, Kolkata Bench; or*
 - (c) *The Hon’ble Tribunal be pleased to consider and take the Final report on record; and*
 - (d) *Any other directions which the Hon’ble National Company Law Tribunal, Kolkata Bench may deem fit in the facts and circumstances of the matter.*This application is supported by an affidavit¹ duly affirmed by Mr. Nitesh Kumar More, the RP.
3. This Adjudicating authority *vide* its order dated 29/03/2019 in CP(IB)/1342(KB)2018, had ordered initiation of CIRP against the Corporate Debtor appointing Mr. Nitesh Kumar More as the Interim Resolution Professional. *Vide* order dated 14/05/2019, it was recorded that Committee of Creditors unanimously decided to approve the appointment of IRP as RP. Liquidation order² was passed on 06/01/2020 appointing the applicant as the Liquidator.
4. As per regulation 41 of the Liquidation Process Regulations, the Liquidator had duly opened a bank account being Account No. 031205006593 in the name of

¹ Vide affidavit affirmed on 01/03/2023

² Annexure P2 at pages 21 to 26 of the application

“SPS Steels Limited – In Liquidation”, the Corporate Debtor with ICICI Bank Ltd., Minto Park Branch, Kolkata.

5. This Adjudicating Authority *vide* orders dated 18/02/2021, 03/11/2021 and 18/04/2022 had excluded/extended the liquidation period as follows:

Date of order	Application No	Exclusion/Extension		No. in days
		From	To	
18/02/2021	IA(IBC)/65(KB)2021	25/03/2020	31/12/2020	282
03/11/2021	IA(IBC)/863(KB)2021	01/04/2021	14/08/2021	136
18/04/2022	IA(IBC)/183(KB)2022	Extension		6 months

Copies of all the orders including extension and exclusion orders passed by this Adjudicating Authority form **Annexure ‘P3’³**.

6. The applicant had prepared a Final Report as on 26/08/2022 disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor. With the Final Report the Liquidator has annexed the following documents:

Annexure	Description	At page numbers
A	Newspaper publications in Form B on 11/01/2020	63 and 64
B	List of Stakeholders showing details of claims received	65 to 74
C	Public Announcement for the attention of stakeholders of SPS Steels Ltd. in liquidation as per regulation 31(2) read with regulation 12 of Liquidation Process Regulations 2016 and also filed before this Adjudicating Authority	75
D	Preliminary Report as per regulation 13 of the Liquidation Process Regulations & Asset Memorandum as per Regulation 34(4) of the Liquidation Process Regulations filed before this Adjudicating Authority	76 to 98

³ At pages 27 to 49 of the application

E	Copy of Bank Statements with regard to Liquidation Account in the name of the Corporate Debtor	99 to 100
F	Relevant communications with RARE Asset Construction Limited (“RARE”), who had not relinquished the security interest, however by letter dated 23/03/2021 RARE had relinquished the security interest. Applicant had also filed revised assets memorandum with 5 th Progress Report on 16/04/2021.	Pages 101 (Vol.1) to 207 (Vol.2)
G	Copies of Minutes of 11 th Stakeholders’ Consultation Committee Meeting (Applicant had held 11 SCC meetings. Minutes of other SCC meetings (1 st to 10 th) had been filed with the respective progress report)	208 to 224
H	Copies of all E-Auctions notices published in ‘ <i>Financial Express</i> ’ (English) and ‘ <i>Ekdin</i> ’ (Bengali)	225 to 229
I	Copy of auction report, letter of intent, letter of handing over of possession, sale bill and asset sale report	230 to 233
J	Copy of audited receipt & payment a/c	234 to 236
K	Distribution among stakeholders u/s. 53(1)	237
L	Copies of Orders dated 11/08/2021, 12/06/2019, 17/09/2019, 19/03/2020, 18/02/2021 & 19/03/2021	238 to 242

7. The Final Report as submitted by the applicant along with the application is taken on record. A Copy of the Final Report forms **Annexure ‘P4’**⁴
8. In compliance of regulation 45(3) of the Liquidation Process Regulations, the Liquidator has prepared Compliance Certificate in **Form H**, a copy whereof

⁴ At pages 50 to 242 of the application

forms **Annexure ‘P5’**⁵.

9. In compliance of regulation 45(2) of the Liquidation Process Regulations, the Liquidator in paragraph T⁶ of the Final Report has given reasons for increase in Liquidation Cost over and above the estimated liquidation cost as follows :-

“Due to Covid 19, lock down, bad scenario in the real estate market, suitable buyer at the auction reserve price could not be found and that the increase in the Liquidation cost was majorly caused due to five round of E-Auction with publication in the newspapers as per regulation 12(2) of Liquidation Regulation during each such occasion, along with the cost incurred for hosting the E-Auction at the online portal of the NCLT Auction Tiger. The delay in concluding E-Auction has also caused for increase in the other miscellaneous expenditure. Apart from this, there was substantial increase in the litigation cost, due to filing of exclusion, extension & other applications. However, the fees of the Liquidator has been paid as per the Regulation 4 of the Liquidation Regulations.”

10. The affairs of the Corporate Debtor were completely liquidated after realizing the assets and distributing the amount to the stakeholders after complying with the provisions of section 53 of the IBC, 2016 in the order of priority as mandated under the IBC 2016. The Liquidation Account in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached along with Bank Statement showing “zero” balance in the liquidation account.
11. Upon hearing the Ld. Counsel appearing for the Liquidator and perusing the documents annexed to the application, it appears that affairs of the Corporate Debtor have been completely wound up and its assets have been completely liquidated. The bank account has also been closed. In view of the above, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.
12. The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within **fourteen days**

⁵ At pages 243 to 246 of the application

⁶ At page 61 of the application

of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.

13. The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.
14. **IA(IBC)/1035(KB)2022** is allowed with the above directions and both **IA(IBC)/1035(KB)2022** and **CP(IB)/1342(KB)2018** shall stand disposed of accordingly.
15. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
16. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
17. File be consigned to records.

Arvind Devanathan
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 20th day of November, 2023.

hb.