

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

IA (IBC) No. 371/JPR/2022
In CP No. (IB) 166/9/JPR/2019

IN THE MATTER OF:

SAHIL AGARWAL

...Operational Creditor

VERSUS

KHATI DESIGNS PRIVATE LIMITED

...Corporate Debtor

IA (IBC) No. 371/JPR/2022
UNDER SECTION 54 OF IBC, 2016

MEMO OF PARTIES

Satyendra Prasad Khorania,
Liquidator of Khati Design Private Limited,
Having Office at 402, 4th Floor, OK Plus DP Metro,
Opp. Pillar No. 94, New Sanganer Road, Jaipur-302019.

... Applicant/ Liquidator

Versus

Shabeeh Ahmed,
14, Jai Singh Nagar Shiv Vatika, Jai Singhpura,
Shekhawatan Jaipur-302027
E-mail: sahmed@khatidesign.com; shabeehahmed@gmail.com

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IA (IBC) No. 371/JPR/2022
In CP No. (IB)- 166/9/JPR/2019

Alon Molay,
 5, Laxman Singh House, Barwara Colony,
 Ajmer Road, Jaipur-302001
 E-mail: alon@alonmolay.com

... Respondents

For the Applicant : Amol Vyas, Adv.
 For the Respondent : None Appeared

Order Pronounced On: 22.02.2024

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member


1. This Interim Application ('IA') has been filed by *Mr. Satyendra Prasad Khorania* ('Applicant/Liquidator'), the Liquidator of *M/s Khati Design Private Limited* ('Corporate Debtor') under Section 54(1) of Insolvency and Bankruptcy Code, 2016 (the 'Code'/ 'IBC') read with Regulation 45(3) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ('Liquidation Regulations') seeking directions for dissolution of the Company.
2. The Adjudicating Authority *vide* Order dated 27.09.2019 admitted the Application under Section 9 of the IBC, filed by *M/s Sahil Agrawal* ('Operational Creditor') against the Corporate Debtor in the matter mentioned above. In compliance of Regulation 36A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate

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Persons) Regulation, 2016 had affected the publication of Form – G on 18.11.2019 and invited Expression of Interest (‘EOI’) for submission of the resolution plan for the Corporate Debtor. Subsequently, two (2) Expression of Interest (‘EOI’) were received however no resolution plan was received. Copy of the Form G dated 18.11.2019 is annexed as Annexure-3 of the Application.

3. In the 3rd meeting of Committee of the Creditors (‘CoC’) dated 21.05.2020 the Applicant proposed to re-issue the Form-G and extend the date of submission of the EOI however the CoC has dissented on the said proposal and proposed for the liquidation of the Corporate Debtor. Thereafter the Applicant had given written consent to act as liquidator. Copy of the 3rd meeting of CoC is annexed as Annexure-4 of the Application.
4. The Applicant has filed an Application under Sections 33 and 34 of the Code, 2016 for the issuance of directions with respect to liquidation of the Corporate Debtor. This Adjudicating Authority vide order dated 18.02.2021 commenced the liquidation process of the Corporate Debtor and the Applicant was appointed as the Liquidator. Copy of the order dated 18.02.2021 is annexed as Annexure-5 of the Application.
5. In compliance of the Regulation 12 of the Liquidation regulation, a public announcement was made by the Liquidator on 20.02.2021 and it was published in two newspapers namely the Financial Express and Amar Ujala

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wherein the last date of submission of the claim was 20.03.2021. Copy of the Public Announcement in Form-B is annexed as Annexure-6 of the Application.

6. Subsequently, the Liquidator has received various claims from the Financial Creditor and Operational Creditor. As per Regulation 31 of the Liquidation Regulation 2016, the Liquidator has prepared the list of the creditors as follows:

List of the Financial Creditors (Secured & Unsecured)

<i>Sr. No.</i>	<i>Name of Financial Creditors and Address</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>
1.	<i>Bank of Baroda Bombay House, MI Road, Jaipur-302001 E-mail: miroad@bankofbaroda.com</i>	44700794	44700794
2.	<i>Tata Capital Financial Services Limited Email: Shrinivas.Kodiyal@tatacapital.com, naveen.muppuri@tatacapital.com, Saurabh.Bhatia@tatacapital.com, Abhishek.Rajoria@tatacapital.com</i>	1309962.11 290659.72	1087278.61 287878.27
	<i>Total</i>	46301415.83	46075950.88

Claim by Operational Creditor

<i>Sr. No.</i>	<i>Name of Operational Creditors and address</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>
1.	<i>Agarwal Trade Agencies</i>	539564	539564
2.	<i>Samriddhi Industries</i>	1021924.69	794532.14
3.	<i>Rohit Sales</i>	603005	603005
4.	<i>UMA Woods Industries</i>	966111	966111
5.	<i>Sheela Foam Limited</i>	1482731	887181

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6.	<i>ANA Agencies</i>	792968.45	792968.45
7.	<i>Rachna Enterprises</i>	303874	303874
	<i>Total</i>	5710178.14	4887235.59

7. In accordance with Regulation 31A of the Liquidation Regulation the Liquidator had constituted the Stakeholders Consultation Committee ('SCC') and conducted the meeting on 22.06.2021 wherein the representative of the stakeholder passed the resolution for the sale of assets of the Corporate Debtor through E-Auction. The Liquidation Estate includes land, building situated at Plot No. G-73, RIICO Industrial Area Bagru (Extension), Jaipur measuring 1500 sq. Mtrs., parts of plants, machinery, inventories, office equipment, furniture, fixtures, scrap & other movable assets. Copy of meeting of the SCC is annexed as Annexure-7 of the Application.
8. The Liquidator has not received the Earnest Money Deposit ('EMD') till the last date of submission of EMD for the E-Auction therefore, E-Auction has not taken place due to non-receiving of EMD. The details of the public notice for E-Auction are as follows:

<i>E-Auction</i>	<i>Date and Time</i>	<i>Lot</i>	<i>Reserve Price</i>
<i>1st Auction</i>	<i>04.08.2021</i>	<i>In 1 Lot</i>	<i>1,86,00,000</i>
<i>2nd Auction</i>	<i>26.08.2021</i>	<i>In 1 Lot</i>	<i>1,67,40,000</i>
<i>3rd Auction</i>	<i>13.10.2021</i>	<i>In 1 Lot</i>	<i>1,67,40,000</i>

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9. Thereafter Seven (7) prospective buyers took part in the E-Auction and Fifty-Nine (59) bids were submitted by the bidders. The highest bid was submitted by *Rohit International Proprietor Rohit Kumar* for a sum of Rs. 1,90,40,000/- (One Crore Ninety Lakh Forty Thousand Only). The Liquidator has declared the result of the E-Auction, and *Rohit International Proprietor Rohit Kumar* is the highest bidder of the E-Auction was declared as the successful bidder. Copy of the Bid Report and details of the Bid history are annexed as Annexure-9 of the Application.
10. The Successful Bidder has deposited the complete sale consideration along with the interest after 30 days of the E-Auction. Consequently, the Liquidator has successfully handed over the possession of the auctioned assets to the Successful Bidder/Auction Purchaser on 03.12.2021. The sale deed has been executed and registered on 17.06.2022 in favour of the Successful Bidder.
11. The Liquidator has filed an affidavit in compliance of order dated 14.02.2023, vide Dairy No. 728/2023 dated 21.03.2023 wherein it was mentioned that as per Regulation 41 of Liquidation Regulation the Liquidator had opened a Bank Account in the name of the Corporate Debtor in a scheduled bank for the receipt and payment of the Corporate Debtor and the said Bank Account was closed on 18.07.2022. The Liquidator has also

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filed a compliance certificate in Form H for the dissolution of the Corporate Debtor.

12. As per Section 54 of IBC, the Liquidator can approach the Adjudicating Authority for dissolution of the Corporate Debtor when the assets of the Corporate Debtor have been completely liquidated. The Application for the dissolution of the Corporate Debtor has been moved under proper norms, and in compliance with the directions of this Adjudicating Authority, a final report and Form-H have also been attached in the instant Application.
13. This Adjudicating Authority has perused all the relevant papers and found them in Order. The Registered Office of the Corporate Debtor is situated in Jaipur; therefore, this Adjudicating Authority has jurisdiction to entertain and try this Application. The matter is within the purview of the Law of Limitation as the Application filed within the period of limitation.
14. The dissolution of a Corporate Debtor is provided under Section 54 of the Code, which is provided below for ease of reference:

Section 54: Dissolution of corporate debtor. - (1) *Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.*

(2) *The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.*

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(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.

15. The ledger account maintained by the Liquidator shows that there are no assets in the name of the Corporate Debtor and distribution to stakeholders has been made however one secured creditor namely *Tata Capital Financial Services Ltd.* has not relinquished its security interest (Vehicle) to the Liquidation Estate. In the present Application, *prima facie* there are no tangible assets of realization or commercial value of the Corporate Debtor and it is not doing any business. Therefore, there are no means or sources available with the Corporate Debtor to discharge its liabilities.
16. In the light of the aforementioned facts, it is noticed that since there is no possibility to continue the liquidation process of the Corporate Debtor in the absence of any assets/documents/records and personnel of the corporate debtor, it is just and equitable to allow the prayer of the Applicant. Furthermore, there are no pending litigations against the Corporate Debtor.
17. Consequently, it is not only just and equitable but also necessary as no sale proceeds are available to satisfy the creditor's dues (s). The present case falls within the parameters of Section 54 of the Code and is a fit case for an Order of dissolution—the Corporate Debtor *M/s. Khati Design Pvt. Ltd.* stands 'Dissolved' from the date of this Order and the Liquidator stands discharged from his duties under the Code, Rules and Regulations thereof.

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18. Since the Company stands Dissolved *vide* this Order and no proceedings are pending, the Registry is directed that the case file be consigned to records.
19. Copy of this Order shall be forwarded within 15 days to the concerned authorities and the Registrar of Companies having jurisdiction for further necessary action as prescribed under Law.
20. Accordingly, IA No. 371/JPR/2022 and CP No. (IB) – 166/9/JPR/2019 stands disposed of.



**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**



**RAJEEV MEHROTRA,
TECHNICAL MEMBER**