O/C

AKSHITA JAIN

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19 April 2023

To,
The Registrar,
National Company Law Tribunal, Bench at Mumbai
Bench No. 3
MTNL Building
Cuffe Parade, Mumbai: 400 005

Re: - **BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**

INTERLOCUTORY APPLICATION NO. 1425 OF 2023
(APPLICATION UNDER SECTION 54(1) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016)
IN

COMPANY PETITION NO. 3208 OF 2019
(APPLICATION UNDER SECTION 9 OF THE INSOLVENCY & BANKRUPTCY CODE, 2016)

Mr Sachin Jain ...Applicant/Liquidator

In the matter:

Raunak Mercantile and Trading Private Limited ... Operational Creditor
Versus
Alankrit Mercantile Private Limited ... Corporate Debtor

Sub: Application for Certified Copy of the Order dated 18 April 2023.

Dear Sir,

The captioned matter was listed on **18 April 2023.**

Be pleased to issue one certified copy of the order dated **18 April 2023** in the captioned matter. I am applying for certified copy of the order dated **18 April 2023** for the first time.

Regards,

Akshita

Akshita Jain
Advocate for the Applicant

राष्ट्रीय कम्पनी विधी अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
19 APR 2023
डायरी नं / DIARY NO. D 5509 C3
CO. PET. / APPLICATION No. 10.42

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

6. I.A. 1425/2023
IN
C.P.(IB)-3208(MB)/2019

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **18.04.2023**

NAME OF THE PARTIES: Raunak Mercantile and Trading Private Limited

V/s.

Alankrit Mercantile Private Limited

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Akshita Jain, counsel appearing for the Liquidator is present through virtual hearing.

I.A. 1425/2023

The above Interlocutory Application is filed by the Liquidator for Dissolution of the Corporate Debtor Company.

Heard the argument of counsel appearing for the Liquidator and the above Interlocutory Application is **allowed**. Detail order would follow:

The above C.P. need not be listed again on Board.

Sd/-
MADHU SINHA
Member (Technical)
//SKS//

Sd/-
H.V.SUBBA RAO
Member (Judicial)

राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
मुंबई न्यायपीठ
MUMBAI BENCH

Certified True Copy
Copy Issued "free of cost"
On 16/04/2023

Deputy Registrar
National Company Law Tribunal Mumbai Bench
(D.5509) 19/4/2023

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III

I.A. No. 1425 of 2023

IN

C.P. No. 3208 of 2019

Under Section 54 of Insolvency & Bankruptcy Code, 2016

In the matter of
Raunak Mercantile and Trading Private Limited

.... Operational Creditor

vs.

Alankrit Mercantile Private Limited

.... Corporate Debtor

I. A. No. 1425 of 2023
Mr. Sachin Dharmendra Jain

.... Applicant/Liquidator

Order delivered on: 18.04.2023

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Smt. Madhu Sinha, Member (Technical)

Appearance:

For the Applicant: Mr. Akshita Jain, Advocate for the Liquidator

ORDER

1. It is an application filed by the Liquidator seeking an Order under Section 54 of the Insolvency and Bankruptcy Code, 2016 for granting **"Dissolution"** of Corporate Debtor.

2. An Application under Section 9 of the Code was filed by Raunak Mercantile and Trading Private Limited ("Operational Creditor") seeking initiation of Corporate Insolvency Resolution Process ("CIRP") of Corporate Debtor. The said Application was admitted by this Tribunal, vide order dated 04.12.2020 and Ms. Rajshree Padia herein was appointed as Interim Resolution Professional to conduct the CIR process of the Corporate Debtor.
3. In the 3rd Meeting of COC dated 18.02.2021, the COC by 100% votes had approved the resolution for liquidation of the Corporate Debtor and accordingly an Interlocutory Application bearing I.A. No. 779 of 2021 of CP. No. 3208 of 2019 was filed under Section 33 of the Code before this Tribunal to initiate liquidation proceedings against the Corporate Debtor and subsequently the said Application was allowed by the this Tribunal vide order dated 06.05.2022.
4. In view of the said order passed by the Hon'ble NCLT, Mumbai Bench, Mr. Sachin Dharmendra Jain i.e., the Applicant herein, having Registration No. IBBI/IPA-001/IP-P. 02005/2020-2021/13453 was appointed as the Liquidator of the Corporate Debtor in terms of section 34(1) of the Code.
5. The Applicant states that public announcement in prescribed Form B was published on 08.06.2022 in Financial Express (English) and Tarun Bharat in Regional language and the same was uploaded on the website of IBBI on 08.06.2022 calling upon stakeholders to submit their claims as on the liquidation commencement date and the last date of submission of claim was 06.07.2022.
6. The Applicant states that as per Regulation 31(2) of IBBI (Liquidation Process) Regulations, 2016, the list of stakeholders dated 04.08.2022 of the Corporate Debtor was filed on 13.09.2022 by the Applicant before this Tribunal.

7. The Applicant states that since there was no operational website of the Corporate Debtor wherein the list of stakeholders can be viewed by the public therefore, as provided under Regulation 31(2) read with Regulation 12 (3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Applicant herein had made a public announcement in Active Times in English language and Lakshwadeep in Regional language, Mumbai edition on 14.09.2022.
8. The Applicant states that in the First meeting of the Stakeholders Consultation Committee ("SCC") held on 12.08.2022, the SCC recommended that the valuation of the assets of the Corporate Debtor to be considered under Regulation 35 (1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations; 2016 which was done by the two registered valuers appointed during the CIRP of the Corporate Debtor since the position of the assets of the Corporate Debtor remains the same during the Liquidation process of the Corporate Debtor.
9. The Applicant further submits that as envisaged under Regulation 13 and 34 of IBBI (Liquidation Process) Regulations, 2016 the preliminary report along with asset memorandum was filed by the Applicant before the Hon'ble NCLT, Mumbai on 13.09.2022.
10. The Applicant states that thereafter three progress reports reporting the progress made in the Liquidation of the Corporate Debtor were filed by the Applicant before the Hon'ble NCLT, Mumbai on various dates viz:-

Sr. No.	Particulars	Filing Date
1.	First Progress Report/ Liquidation Report along with liquidator's Receipt and Payment Account as on 30th June 2022	13.09.2022

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2.	Second Progress Report/ Liquidation Report as on 30th September 2022	15.10.2022
3.	Third Progress Report/ Liquidation Report as on 31st December 2022	15.01.2023

11. The Applicant submits that on 10.12.2022, the Applicant had conducted an e-auction for the sale of the assets of the Corporate Debtor. The Applicant submits that there being only inventories as the asset of the Corporate Debtor the same was sold via e-auction at liquidation value i.e. at reserve price of Rs. 6,32,000/-.

12. The Applicant submits that no response was received to e-auction conducted on 10.12.2022 for the sale of the assets of the Corporate Debtor.

13. The Applicant submits that the Second meeting of the Stakeholder Consultation Committee (SCC) of Corporate Debtor was held on 19.12.2022, wherein the Applicant informed the SCC that since no response was received in the 1 e-auction. The stakeholder advice the liquidator to sell the inventory of the corporate debtor via private sale.

14. The Applicant submits that on 23.12 2022, the Applicant by way of private sale sold the assets of the Corporate Debtor. The Applicant submits that there being only inventories as the asset of the Corporate Debtor the same was sold via private sale at reserve price of Rs. 5,69,000/-. It is submitted that all the available assets of the Corporate Debtor have been completely liquidated therefore, it is appropriate to dissolve the Corporate Debtor in terms of section 54 of the Code.

15. The Applicant submits that the Third meeting of the Stakeholder Consultation Committee (SCC) of Corporate Debtor was held on 30.12.2022, wherein the Applicant informed the SCC that

राष्ट्रीय कम्पनी विधि अधिकरण NATIONAL COMPANY LAW TRIBUNAL मुंबई न्यायपीठ MUMBAI BENCH the asset of the Corporate Debtor has been sold and realized therefore, it would be appropriate to file an application for dissolution of the Corporate Debtor in terms of Section 54(1) of the Code. Thereafter, the SCC unanimously decided to pass the following resolution for dissolution of the Corporate Debtor, the same is reproduced herein below for ready reference-

> ***"RESOLVED THAT*** *the Stakeholders Consultation Committee (SCC) of the Alankrit Mercantile Private Limited ("Corporate Debtor") be and hereby advise the liquidator to file an application for dissolution of the Corporate Debtor in terms of Section 54 of the Code:*
>
> ***FURTHER RESOLVED THAT*** *the SCC be and hereby authorise Mr. Sachin Dharmendra Jam Liquidator to appoint the professionals like Lawyer and Chartered Accountant etc. as may be necessary, for filing an application of dissolution of the Corporate Debtor to do all such acts, deeds, things and matters as may be deemed expedient and necessary in his absolute discretion, to give effect to the above resolution and dissolution of the Corporate Debtor."*

16. In view thereof, the SCC unanimously decided to file an application for dissolution of the Corporate Debtor.

17. The Applicant submits that as per regulation 45 of Insolvency and Bankruptcy Code, (Liquidation Process) Regulation, 2016 the final liquidator's report is required to be filed along with the instant Application therefore, the Applicant herein has prepared the final liquidation report.

18. The Applicant further submits that all the compliances have been done by the Applicant as per the provisions/regulations

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envisaged in the Code, a copy of the compliance certificate in prescribed Form - H to the Final Report.

19. The Applicant submits that taking into consideration the current financial position of the Corporate Debtor and considering the fact that there is no tangible assets of realization or saleable value of the Corporate Debtor, there is absolutely no means / sources available with the Corporate Debtor to discharge its liabilities. Therefore, it is appropriate to proceed with the dissolution of the Corporate Debtor in terms of the provisions laid down under section 54(1) of the code.

20. It is submitted that the Applicant has fulfilled all his duties as per the tenets of the Insolvency and Bankruptcy Code, 2016, and has complied with all the necessary obligations as per the timeline provided under Insolvency and Bankruptcy Board of India (Liquidation process) Regulation. 2016. Therefore, the Applicant is filing this present application seeking dissolution of the Corporate Debtor under section 54 of Insolvency and Bankruptcy Code, 2016.

21. For the purpose of pronouncement of Dissolution of a Corporate Debtor Section 54 of The Insolvency and Bankruptcy Code, 2016 reads as under:-

> *"54. (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 subsection (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."

22. In this connection it is also worth to refer to Section 59, Sub-Section 7 of IBC. Although this Section is in respect of Voluntary Liquidation of a Corporate Person, however, according to which where the affairs of the Corporate Person have been completely wound up, and its assets completely liquidated, the Liquidator shall make an Application to Adjudicating Authority for the Dissolution of such Corporate person. This Sub-Section is simply referred for the reason that in all such situation an Application is to be moved for seeking an Order of "Dissolution of a Corporate Person".

23. As a consequence, through this Order it is hereby declared that not only it is just and equitable but because of the fact that no asset is available for the purpose of 'Liquidation' as reported by Learned Liquidator, this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016. Ordered accordingly, stands 'Dissolved' from the date of this Order.

24. Since the Debtor Company stands Dissolved vide this order and no proceedings are now pending, therefore the Registry is directed that the case file be consigned to records.

25. Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies having jurisdiction, for further necessary action as prescribed under Law.

26. Accordingly, I.A. No. 1425 of 2023 is hereby allowed and disposed off and C.P. No. 3208 of 2019 is hereby closed.

Sd/-
Madhu Sinha
MEMBER (Technical)

Sd/-
H.V. Subba Rao
MEMBER (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 16/5/2023
Sachin Kumar
16/05/2023
Deputy Registrar
National Company Law Tribunal Mumbai Bench

(D-5509) 19/4/23

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