SL. No.3

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ – HON'BLE MEMBER (J)
CORAM: SHRI. SANJAY PURI - HON'BLE MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 24.11.2023, At 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	**IA (IBC)/549/2021 in CP (IB) No.524/7/HDB/2018**
NAME OF THE COMPANY	**Minerva Executive Apartments Pvt Ltd**
NAME OF THE PETITIONER(S)	**Union Bank of India**
NAME OF THE RESPONDENT(S)	**Minerva Executive Apartments Pvt Ltd**
UNDER SECTION	**7 of IBC**

ORDER

IA (IBC)/549/2021

Orders pronounced, recorded vide separate sheets. In the result, this application is party allowed and disposed of.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

Vamsi

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-II

IA 549/2021
In
CP (IB) NO.524/7/HDB/2018

[U/s. 60(5) of the Insolvency & Bankruptcy Code 2016, r/w Regulation 45(3) (a) of the IBBI (Liquidation Process) Regulations, 2016

In the matter of Union Bank of India vs. Minerva Executive Apartments Private Limited

Mr. Kasa Venkata Ramanaiah
Liquidator of M/s.Minerva Executive Apartments Private Limited

... Applicant

Counsel/Parties present:

For the Applicant	:	Mr. Kasa Venkata Ramanaiah, Liquidator

Order Reserved on: 31.10.2023
Order Pronounced on: 24.11.2023

Coram:

Hon'ble Sri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Sri Sanjay Puri, Member (Technical)

Date of Order: 24.11.2023

[PER: BENCH]

ORDER

I. The instant Application is filed by the Liquidator of M/s.Minerva Executive Apartments Private Limited, for short 'CD' under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 45(3)(a) of the IBBI (Liquidation Process) Regulations, 2016, inter-alia, seeking the prayers mentioned at pg. nos.16 to 18 of the application.

II. The gist of the Application is –

1. This Adjudicating Authority, vide Order dated 05.03.2019 admitted the Company Petition bearing CP (IB) No.524/7/HDB/2018 filed by Union Bank of India, for short **'FC'** and Corporate Insolvency Resolution Process commenced against M/s.Minerva Executive Apartments Private Limited, for short **'CD'** by appointing the Applicant herein as Interim Resolution Professional, who was later confirmed as Resolution Professional.
2. In pursuance of the decision in the 8th COC meeting, the Applicant had filed an IA 789/2019 for initiation of Liquidation of the Corporate Debtor, which was allowed by this Adjudicating Authority, vide order dated

26.11.2019, by appointing the existing RP as Liquidator of the Corporate Debtor.

3. In response to the public announcement dated 30.11.2019, the claims were received from the stakeholders, which were verified, communicated their admission/rejection to the stakeholders and the same was also filed before the Adjudicating Authority.

4. After constituting the Stakeholders Consultation Committee, for short '**SCC**', the Liquidator conducted the SCC meetings on 18.01.2020, 04.07.2020 and 07.09.2020.

5. During the first 9 e-auctions, the Liquidator did not receive any applications. In the 10th e-auction[1], the Liquidator received one application from M/s.Virani Capital Services Private Limited with the required documents and EMD of Rs.50 lakhs. The qualified bidder participated in the E-auction scheduled on 03.02.2021 and the Liquidator declared the qualified bidder as the Successful Bidder and issued Letter of Intent, for short 'LOI' on 03.02.2021 followed by an addendum to LOI on 08.02.202 and the same was accepted by the Successful Bidder and submitted the same to the Liquidator on

[1] Copies of paper publications at pg. nos.41 to 50 of the application.

18.02.2021[2]. After receiving full sale consideration of Rs.9.14 crores and Rs.8,95,035/- towards interest for the delayed period of 41 days, the Liquidator issued Sale Certificate[3] on 11.05.2021 to the Successful Bidder under advice to all the stakeholders.

6. It is averred that the Liquidator initiated distribution of CIRP costs, liquidation expenses and distribution to the stakeholders on 20.04.2021, which was partially complied with by Union Bank of India (sole secured financial creditor) on 27.07.2021. UBI is yet to release the amount towards part of the liquidation expenses and liquidator's fees on distribution, as detailed in the email dated 04.09.2021[4]. Subsequently, the Liquidator had filed an Intervention Petition No.2/2021 praying for directions to the Bank to release the amounts.

III. Having heard the Learned Liquidator for the CD, on perusal of the record and case law, we are of the considered view that the reliefs as tabulated below, in the form of waivers and concessions, can be granted for the smooth transition of the Corporate Debtor.

[2] Copies of Letter of Intent and Addendum to Letter of Intent are filed at pg.nos.51 to 55 of the appn.
[3] A copy of Sale Certificate dated 11.05.2021 at Pg. nos.56-59 of the application.
[4] A copy of email dated 04.09.2021 is filed at pgs. 60 to 61 of the application.

IV. The Liquidator has filed Form-H at page nos.22 to 30 under Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and necessary documents along with the application praying the Adjudicating Authority to relieve the Liquidator from the liquidation process of the Corporate Debtor Company as liquidation process is complete. The said provision reads as under:-

*"**Regulation 45 (3) (a): Final report prior to dissolution**.*

(3) The liquidator shall submit an application along with the final report and the compliance certificate in form-H to the Adjudicating Authority for –

(a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern;

V. On going through the facts aforementioned and the material placed along with the Application, it is evident that the assets of the Corporate Debtor were sold to the Successful Bidders supra. It is seen from Form-H that the amount of Rs.9,22,95,035/- realized from the sale of Liquidation Estate was distributed among the stakeholders as per Section 52 or 53 of the Code, which is shown at pg. no.26 to 27 of the application.

VI. The Liquidator relied on the following Orders:

1. **Paras 13 & 14 of the Order in IA 1038/2019** in **CP(IB) 343/7/HDB/2018 in re., M/s. Southern Online Bio Technologies Limited, dated 26.11.2019.** A copy of the relevant extract is filed at pg. nos.62 to 64 of the application.

2. **Para 8 of the Order in IA 157/2021** in **CP(IB) 329/7/HDB/2018 in re., M/s. Viswa Infrastructures and Finance Private Limited.** A copy of the relevant extract is filed at pg. nos.65 to 66 of the application.

3. **Para 32 of the Order in IA 2264/2020** in **CP(IB) 1239/MB/2018 in re., M/s. Topworth Pipes and Tubes Private Limited.** A copy of the relevant order is filed at pg. nos.67 to 68 of the application.

4. **Para 32 of the Order in IA 741/2021** in **CP(IB) 1319/MB/2017 in re., M/s. Enviro Bulkk Handling Systems Pvt. Ltd.** A copy of the relevant order is filed at pg. nos.69 to 70 of the application.

5. **Para 38 of the Order in IA 391/2021** in **CP(IB) 37/2017 in re., Nitin Jain, Liquidator of PS Ltd. vs. Lucky Holdings Ltd.** A copy of the relevant order is filed at pg. nos.71 to 72 of the application.

VII. The Liquidator preferred the instant application seeking certain reliefs. By going through the Form-H, and the documents filed alongwith the application, it is evident that the Liquidator has sold the Corporate Debtor as a going concern, as such, it is a fit case for closure of Liquidation process by granting the following reliefs as sought by the Liquidator, which are as follows:

Sl. No.	Particulars of the reliefs and concessions	Observation/Order/ Direction
a.	Liquidation Expenses of Rs.8,96,800/- and Liquidator's fees on distribution of Rs.14,32,178/- as prayed for in IA (Invn.P.2/2021) be released by Union Bank of India immediately.	Order pronounced on 10.10.2022 directing that – ***'Union Bank of India to release the remaining liquidation expenses and fees as claimed by the Liquidator forthwith, in any case not later than a week from the date of receipt of this Order. A confirmation to this effect be submitted by the Financial Creditor as well as liquidator within a week from the date of receipt of this order, with the above direction this IA 02/2021 is disposed of and no order as to cost'.***

b.	Pass an order that the shares of existing shareholders prior to the date of liquidation commencement date be extinguished.	Granted
c.	The sale consideration amount of Rs.9,14,00,000/- received is to be infused in the form of debt and equity and to issue fresh equity in the name of the Successful Bidder or its nominees, in the ratio decided by the successful bidder.	Granted
d.	Permit the Liquidator to reconstitute the Board of the Corporate Debtor with the persons nominated by the Successful Bidder.	Permission is accorded for reconstitution of the Board of Directors of the Corporate Debtor by the Successful Bidder of the Corporate Debtor. We direct the ROC, Hyderabad to do all such acts, deeds, things that are necessary to appoint the individuals recommended by the successful bidder/purchaser in order to enable the Company to file relevant returns required by the applicable law.

e.	Pass an order or direction that all the cases pending/decreed against the Corporate Debtor by any court and/or Tribunal and/or any quasi-judicial authority will not be enforceable against the Successful Bidder or the Corporate Debtor.	Granted
f.	Pass an order or direction that the status of the Corporate Debtor in the ROC records as 'active' from the status of liquidation.	Granted. However, the Company shall file all necessary forms and applications, alongwith applicable fee, with the ROC(H), if required. The concerned Registrar of Companies (ROC) shall take steps in this regard, immediately after the copy of this Order is filed in the forms, as prescribed.
g.	Pass an order directing the ROC to record satisfaction of all charges against the Corporate Debtor.	In absence of details of the charges, no specific direction is given.
h.	Pass an order or direction that upon completion of the sale of Corporate Debtor as a going concern, all the claims or demands made, by or liabilities or obligations owned or payable to any actual or potential	Granted. Since it is sale as a going concern, the Applicant is not to be saddled with the liabilities existing prior to the Effective Date.

	Creditors of the Corporate Debtor including Government dues or in connection with any debt of the Corporate Debtor, whether direct or indirect, whether admitted or not, due or contingent, asserted or unassrted, crystallised or uncrystallized, known or unknown, secured or unsecured, disputed or undisputed, confirmed or unconfirmed, present or future, in relation to any period prior to the e-auction date or arising on accont of the acquisition of control by the Successful Bidder over Corporate Debtor pursuant to the e-auction, will be written off in full and shall stand permanently extinguished.	The Applicant shall not be responsible for any other claims, liabilities or obligations, under any guarantees, etc. payable by the Corporate Debtor as on this date to the creditors or any stakeholders including the Government dues. All the liabilities of the Corporate Debtor as on date stands extinguished, qua the Successful Bidder.
i.	Pass an order or direction that all subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, shall, notwithstanding any provision to the contrary in their terms, be deemed to continue without disruption for the benefit of the	Issuance/renewal of all kinds of licenses / permissions/ approvals required is allowed subject to payment of renewal fees, if any, from this date to the Licensing Authorities.

	Corporate Debtor, and all additional licenses, registrations and consents to operate required by the Corporate Debtor should be made available immediately.	
j.	Pass an order or direction that the Corporate Debtor shall have a right to review and terminate any contract that was entered into prior to the Liquidation Order date.	Granted.
k.	Pass an order or direction that the Successful Bidder is having right over the receivables of the Corporate Debtor and right to recover any amount due to the Corporate Debtor from any third party including past buyers, any related parties of the Corporate Debtor as mentioned in the audited financial statements and there shall be no set off of any such amounts recoverable by the Corporate Debtor against any amount paid by the Corporate Debtor or any liability discharged, satisfied or extinguished pursuant to this sale.	Granted
l.	Pass an order or direction that the Corporate Debtor is entitled to brought forward losses, if	The Corporate Debtor is entitled to get the benefits of brought

	any, subject to the permission of the appropriate authority under the provisions of Income Tax Act, 1961.	forward losses, if any, subject to permission of the appropriate authority, if so, entitled under the relevant provisions of the Income Tax Act, 1961.
m.	Pass an order or direction that upon completion of sale of the Corporate Debtor as a whole as a going concern, all the assets specified E-Auction Process Document shall continue to be assets of the Corporate Debtor.	Granted.

VIII. As a sequel to the above, we hereby order closure of the Liquidation proceedings against the Corporate Debtor viz. **M/s.Minerva Executive Apartments Private Limited** from the date of this Order, in terms of Regulation 45 (3) of the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Consequently, the Liquidator stands relieved.

IX. The Liquidator is directed to send the copy of this Order within 7 days from the date of pronouncement to the Registrar of Companies, Hyderabad and hand over all the books and files of the Corporate Debtor **M/s. Minerva Executive Apartments Private Limited** which are in possession of the Liquidator to the successful bidder.

X. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data.

XI. A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.

XII. With the above directions, **IA No.549/2021 in CP(IB) 524/7/HDB/2018 is partly allowed and stands disposed of.**

Sd/-	**Sd/-**
SANJAY PURI	**RAJEEV BHARDWAJ**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Syamala