



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH - 2**

**IA No. 619/NCLT/AHM/2021
IN
C.P. (I.B.) No. 107/NCLT/AHM/2019**

(Under section 54(1) of the Insolvency and Bankruptcy Code, 2016 r.w.
Regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016)

In the Matter of:

Mr. Pinakin Shah

Liquidator of

M/s Brew Berrys Hospitality Private Limited

... Applicant

AND

In the Matter of:

M/s. Pooja Electronics Appliances

.... Operational Creditor

Versus

M/s Brew Berrys Hospitality Private Limited

... Corporate Debtor

Order Pronounced on: 03 .02.2023

Coram:

**DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)**

**AJAI DAS MEHROTRA
HON'BLE MEMBER (TECHNICAL)**



MEMO OF PARTIES

IN THE MATTER OF:

Mr. Vikash Gautamchand Jain

Liquidator of

M/s. Brew Berrys Hospitality Pvt. Ltd.

Having Registered Office at:

Shop No. 7/8, Greenwood Complex, Makarpura Road,

Vadodara – 390001

...Applicant/Liquidator

Present:

For the Applicant: Mr. Pavan Godiawala, Adv.

ORDER

1. The instant Application is filed by Mr. Pinakin Shah, Liquidator of M/s. Brew Berrys Hospitality Private Limited (for brevity ‘the Corporate Debtor’) under section 54(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as ‘IB Code’) r.w. Regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016 seeking an order for the dissolution of the Corporate Debtor.
2. The brief facts of the case are as under:-
 - a) An Operational Creditor (M/s. Pooja Electronics Appliances) had filed an application under section 9 of the IB Code for initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) of M/s. Brew Berrys Private Limited which was admitted vide order dated 29.05.2019 and Mr. Nitin Parikh was appointed as Interim Resolution Professional (hereinafter referred to as “IRP”).



- b) 1st meeting of the Committee of Creditors (hereinafter referred to as “CoC”) was held on 27.06.2019, wherein the resolution was passed by the CoC for the replacement of IRP and the same was allowed by this Authority vide order dated 17.12.2019 and appointed Mr. Pinakin Shah as RP.
- c) In the 2nd meeting of the CoC dated 11.11.2019, it was decided by the CoC to apply for extension of the CIRP period by 90 days beyond 180 days and the same was allowed by this Authority vide order dated 02.12.2019.
- d) In the 5th meeting of the CoC dated 13.02.2020, it was unanimously resolved to liquidate the Corporate Debtor by 94.34 % voting, as no resolution plan was received. Thereafter, the RP filed an application bearing I.A. No. 769 of 2020 for the liquidation of the Corporate Debtor under section 33 of the IB Code.
- e) Vide order dated 02.07.2020, the liquidation order was passed under section 33 of the IB Code and Mr. Pinakin Shah was appointed as the Liquidator of the corporate debtor.
- f) The Liquidator gave necessary public announcements in the leading newspapers, inter alia, inviting claims from all the stakeholders of the Corporate Debtor.
- g) Based on the claims received the liquidator prepared a list of stakeholders and filed it before this Authority.
- h) It is further submitted by the applicant that during the liquidation period, the Assistant Commissioner of State Tax had seized the bank amount of the corporate debtor with Kotak Mahindra Bank. Thereafter, the Liquidator filed an application



before this Authority for the release of the said bank amount of the corporate debtor which was dismissed. Aggrieved by the order of this Authority, the applicant had filed an appeal before the Hon'ble NCLAT and the same appeal was allowed and directions were given for release from seized bank account of the corporate debtor, by Kotak Mahindra Bank.

- i) This application was heard and order was reserved on 01.12.2022. Thereafter, on 09.01.2023, the Bench raised some queries about the distribution of funds, statement of the Liquidation Bank A/c. and the minutes of the last SCC meeting. However, due to non-compliance with the order dated 09.01.2023, the matter was listed on 18.01.2023. On 18.01.2023, directions were given to the Liquidator to call the meeting of SCC and place the synopsis of the Liquidation Process and get approval of the closure of liquidation process from SCC and file the chart of the entire summary of the Liquidation amount received, distribution, amount transferred from the bank account of the corporate debtor to the Liquidation account.
- j) In compliance of the order dated 18.01.2023, the Liquidator has filed the additional affidavit on 30.01.2023, along with a revised Final report, Copy of e-copy of minutes of meeting dated 25.01.2023 of SCC, Summary of receipt and payments, Copy of confirmation of minutes by Bank of Baroda -the sole member.
- k) In compliance with Regulation 45 of the IBBI(Liquidation Process) Regulations, 2016, the Liquidator has filed the Final report along with the Compliance Certificate in Form H dated



31.07.2021. The fair value and the liquidation value both are the same, which is Rs.8,25,000/-. The amount realised from the sale of the liquidation estate is Rs.15,85,500/-. The total amount distributed to stakeholders is Rs. 22,60,515/- including cash in hand, income from operation and loan returned to the liquidator. Distribution to the stakeholders as per section 52 or 53 of the IB Code as under:

| SI. No. | Particulars | Amount in Rs. |
|---------|--------------------------------------|---------------|
| 1 | CIRP Costs | 4,22,530/- |
| 2 | Liquidation Costs | 7,66,847/- |
| 3 | Liquidator fees | 3,71,700/- |
| 4. | Liquidator's Loan | 2,26,079/- |
| 4 | Secured Creditors- Bank of Baroda | 4,73,359/- |
| | Total | 22,60,515/- |

- 1) It is further submitted that no further assets are left to be realized and/or disposed of for recovery of dues of the Stakeholders and that nothing remains in the Liquidation Process of the Corporate Debtor. The liquidation account opened with the Punjab National Bank by the liquidator is closed and the closure report has been filed. The liquidator held the final meeting of the Stakeholders Consultation Committee (SCC) on 31.07.2021, wherein the liquidator has appraised the SCC that as per



Regulation 45 of Liquidation Regulation, an application for dissolution of the corporate debtor along with the final report needs to be filed before the Adjudicating Authority. Hence, the instant application is filed by the Liquidator.

3. In view of the above and the documents placed on record, we exercise the powers conferred under section 54(2) of the I.B. Code and order dissolution of the Corporate Debtor viz., M/s. Brew Berrys Hospitality Private Limited having CIN No.U55209GJ2008PTC54771.The Corporate Debtor stands dissolved, from the date of this order.
4. Consequently, the Liquidator Mr. Pinakin Shah is discharged from his duties and responsibilities as the Liquidator of the Corporate Debtor.
5. The Liquidator and the Registry are directed to send a copy of this order within 7 days from the date of this order to the ROC, Gujarat along with all the books and files of the Corporate Debtor, i.e., M/s. Brew Berrys Hospitality Private Limited. The ROC is directed to update the status of the corporate debtor in the master data.
6. A copy of this order shall also be forwarded to the IBBI and concerned parties for their record.
7. Application is allowed on aforesaid terms and stands disposed of.

S/d-

AJAI DAS MEHROTRA
MEMBER (TECHNICAL)

S/d-

DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

RAHUL/LRA