IN THE NATIONAL COMPANY LAW TRIBUNAL

CUTTACK BENCH

IA (IB) No. 189/CTB/2022
IN
TP No. 210/CTB/2019
(CP (IB) No. 1170/MB/2017)

[*An Application under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with the National Company Law Tribunal, Rules, 2016*]

In the matter of:

SANJAY GUPTA
Liquidator of
Vindhya Vasini Industries Limited
Registration No: IBBI/IPA-001/IP-P00117/2016-17/10252
E-10A, LGF, Kailash Colony
New Delhi, 110048. ... **Applicant/Liquidator**

Versus

1. **SMT. SAROJ SINGHANIA**
   Through her Legal Heir
   Mr. AshutoshSinghania
   Flat No. 204, Grand Tower,
   GT Exotica, Shankar Nagar,
   Raipur-492001 .... **Performa Respondent No. 1**

2. **ARUN KUMAR TODI**
   Plot No. 69, Jawahar Nagar Colony,
   Varanasi, Uttar Pradesh-221010 ...**Performa Respondent No. 2**

3. **VARUN KUMAR AGRAWAL**
   DurgaMandir, TilakChouk,
   Shriniwas Marg Post,
   Paratwada, Achalpur,
   Maharashtra-444806 ...**Performa Respondent No. 3**

Sd/-

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Order Pronounced on: 27.09.2024

Coram: **DEEP CHANDRA JOSHI, MEMBER (JUDICIAL)**

KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)

APPEARANCE:

For Applicant: Dhananjay Sud, Adv.
Aditya Gauri, Adv.
Amar Vivek, Adv.
Sanjay Gupta, Liquidator

For Respondent: None

ORDER

1. The instant Application is filed by Mr. Sanjay Gupta, Liquidator of Vindhya Vasini Industries Ltd. (for brevity "**Corporate Debtor**") under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 (for brevity "**Code**") read with Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 seeking an order for the dissolution of the Corporate Debtor i.e. Vindhya Vasini Industries Ltd. The Directors of the Corporate Debtor, who were responsible for the day-to-day functioning and running of the Corporate Debtor have been impleaded as the Performa Respondents in this application for dissolution of the Corporate Debtor.

2. The brief facts of the case as stated in the application are as under: —

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i. An application under Section 7 of the Code was filed by the Punjab National Bank (hereinafter referred to as the "**Financial Creditor**") against the Corporate Debtor before the National Company Law Tribunal, Mumbai Bench, in CP (IB) No. 1170/MB/2017 seeking initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") of the Corporate Debtor. Vide order dated 29.08.2017, the said application was admitted and CIRP was initiated against the Corporate Debtor. Mr. Sanjay Gupta, having registration No. IBBI/IPA-001/IP-P00117/2016-17/10252 was appointed as Interim Resolution Professional. Later, the Committee of Creditors (for brevity "**CoC**") confirmed Mr. Sanjay Gupta as the Resolution Professional.

ii. Due to the non-receipt of any Expression of Interest from any Prospective Resolution Applicants, the members of the CoC during its meeting held on 05.12.2017 resolved to liquidate the Corporate Debtor under Section 33 of the Code. Vide order dated 20.03.2018, the Corporate Debtor was ordered to be liquidated by the National Company Law Tribunal, Mumbai Bench. The Applicant, i.e., Mr. Sanjay Gupta was appointed as the Liquidator. Vide the same order, the National Company Law Tribunal, Mumbai Bench had also attached the property of the Personal Guarantor of the Corporate Debtor for the purpose of liquidation of the Corporate Debtor.

iii. Meanwhile, Chhattisgarh State Industrial Development Corporation Ltd (hereinafter referred to as the "**CSIDC**"), purportedly, cancelled the Lease Deed executed between

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CSIDC and the Corporate Debtor. In view of the same, the Applicant vide letter dated 28.03.2018 informed CSIDC about the initiation of the CIRP of the Corporate Debtor and thereby, requested CSIDC to file their claim with the Applicant. However, no such response was received from the CSIDC.

iv. Subsequently, the Applicant filed an application before the National Company Law Tribunal, Mumbai Bench on 19.04.2018, seeking directions against CSIDC for the cancellation of the Lease Deed, wherein the National Company Law Tribunal, Mumbai Bench allowed the said application vide order dated 04.06.2018 and thereby directed the CSIDC not to cancel the said Lease Deed. Thereafter, CSIDC preferred an appeal before the Appellate Tribunal challenging the order dated 04.06.2018.

v. The Appellate Tribunal while disposing of the said appeal, vide order dated 28.01.2019, directed the Applicant to form the liquidation estate as per Section 36 of the Code and thereby, inform the same to CSIDC. Thereby, the Applicant, vide letter dated 26.02.2019, informed CSIDC that the said land and building of the Corporate Debtor leased by CSIDC is liable to be included in the liquidation estate of the Corporate Debtor.

vi. The Applicant gave necessary public announcements in the leading newspapers, *inter alia*, inviting proof of claims from all stakeholders and Creditors of the Corporate

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Debtor wherein the last date for the submission of the claims was 20.07.2018.

vii. The Applicant had appointed valuers for the valuation of the different classes of assets of the Corporate Debtor. In pursuance of the same, the registered valuers, after the physical verification of the assets of the Corporate Debtor provided their valuation report. In light of the same, the Applicant filed the Asset Memorandum along with the preliminary report on 17.09.2018.

viii. The promoters of the Corporate Debtor who were also the Personal Guarantors of the Corporate Debtor had challenged the liquidation order dated 20.06.2018 before the National Company Law Appellate Tribunal, New Delhi wherein the Appellate Tribunal allowed their appeal partly to the extent that the order of the National Company Law Tribunal, Mumbai Bench directing to include the property of the personal guarantors for liquidation was illegal and that in the absence of any separate application as provided in Section 60(2) of IBC, 2016, no action can be taken against the moveable and immoveable assets of the Personal Guarantors.

ix. After receiving the valuation report, the Applicant published the 1st sale notice for the sale of the plant and machinery of the Corporate Debtor. In pursuance of the same, the Applicant conducted the 1st e-auction process for the sale of the assets of the Corporate Debtor wherein certain assets of the Corporate Debtor were sold.

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x. On the constitution of this Tribunal, the present petition was transferred to this Tribunal from the National Company Law Tribunal, Mumbai, vide orders dated 26.03.2019 and 27.05.2019 and was renumbered as TP No. 210/CTB/2019 (CP (IB) No. 1170/MB/2017).

xi. The Applicant had appointed Share Samadhan Pvt. Ltd. as a Consultant for the purpose of the recovery from the debtors of the Corporate Debtor, for maximising the interest of the stakeholders of the Corporate Debtor and thereby an Agreement was executed between the Applicant and the said Consultant on 09.08.2019.

xii. The Applicant published the 2nd sale notice on 20.02.2020 for the sale of the assets of the Corporate Debtor. In pursuance of the same, the Applicant conducted the 2nd e-auction process on 12.03.2020 for the sale of the assets of the Corporate Debtor wherein the leasehold land and building of the Corporate Debtor were sold.

xiii. In the meantime, the Applicant distributed the sale proceeds amongst the stakeholders of the Corporate Debtor after deducting the CIRP Cost, Liquidation cost and the fees of the Liquidator on 30.06.2020 as per Section 53 of the Code. The Applicant yet again, on 05.12.2020, distributed the sale proceeds of the Corporate Debtor amongst the stakeholders of the Corporate Debtor towards the final settlement of their dues.

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xiv. In the meanwhile, CSIDC vide letter dated 29.06.2021 addressed to the Applicant undertook to withdraw all the litigations initiated by CSIDC, post the settlement of the outstanding dues of CSIDC by the Applicant. Moreover, CSIDC informed the Applicant that the said Lease Deed shall be transferred in the name of the successful buyer of the said leasehold land and building, subject to the execution of a fresh Lease Deed with CSIDC.

xv. The Applicant vide letter dated 07.07.2021, informed CSIDC, in accordance with Regulation 16(2) of the Liquidation Regulations, the Applicant can accept the claim only up to the Liquidation commencement date, i.e., 20.03.2018. In light of the same, the Applicant further informed CSIDC that the claim submitted by the CSIDC on 24.08.2018 amounting to Rs. 32,79,289/- (Rupees Thirty-Two Lakh Seventy-Nine Thousand Two Hundred and Eighty-Nine Only) as on 20.03.2018, was duly verified, scrutinised and admitted by the Applicant through Admittance Letter dated 05.10.2018 as per the provisions of the Code and the same shall be paid to CSIDC in full. Further, in view of the same, the Applicant requested CSIDC to issue a conclusive letter as per the Undertakings given by CSIDC vide Letter dated 29.06.2021.

xvi. In light of the letters dated 29.06.2021 and 07.07.2021 exchanged between the Applicant and CSIDC, CSIDC vide letter dated 26.08.2021, issued an undertaking to withdraw all the litigations initiated by CSIDC, post the settlement of the outstanding dues of CSIDC amounting

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to Rs. 32,79,289/- (Rupees Thirty-Two Lakh Seventy-Nine Thousand Two Hundred and Eighty-Nine Only) by the Applicant.

xvii. The present application was heard at length before this Tribunal on 11.10.2023, whereby the present application was reserved for orders. However, due to the non-closure of the bank account of the Corporate Debtor, the present application was de-reserved and thereby, this Tribunal vide order dated 21.11.2023 directed the Applicant to file an affidavit per se the closure of the bank account of the Corporate Debtor. Subsequent to the same, after efforts of the Applicant for the closure of the bank account of the Corporate Debtor, the bank account of the Corporate Debtor was closed by the Kotak Mahindra Bank vide email dated 15.01.2024 and the same has been brought on record by the Applicant by virtue of an affidavit dated 19.01.2024.

xviii. Further, this Tribunal vide order dated 22.04.2024 directed the Applicant to place on record the relevant bank statements of the Corporate Debtor depicting the distribution of the sale proceeds made by the Applicant in terms of Section 53 of the Code. In compliance of the same, the Applicant has filed an affidavit to bring on record, the relevant bank statements of the Corporate Debtor depicting the distribution of the sale proceeds made by the Applicant in terms of Section 53 of the Code.

xix. The instant IA was listed before this Tribunal on 04.06.2024, wherein this Tribunal directed the Deponent to place on record the Fresh Form-H prepared by the

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Applicant in terms of Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. In terms of the above order dated 04.06.2024 of this Tribunal, the Applicant has filed an affidavit to bring on record, the Fresh Form-H prepared by the Applicant in terms of the provisions of the Code and other allied Regulations. As per this Affidavit, the amount distributed to stakeholders as per Section 52 or 53 of the Code is as under:

Sl. No	**Stakeholders under Section 53(1)**	**Amount Claimed**	**Amount Admitted**	**Amount Distributed**	**Amount Distributed to the Amount Claimed (%)**
(1)	(2)	(3)	(4)	(5)	(6)
1.	(a): CIRP Costs			21,44,400	
2.	(a) Liquidation Costs			73,98,649	
3.	(b) (i) Punjab National Bank	40,11,48,000	35,31,62,612	3,69,15,854	29.52%
4.	(b) (ii) Central Bank of India	14,79,40,401	14,78,88,806	1,54,61,808	70.48%
5.	(c) CSIDC	32,79,289	32,79,289	32,79,289	
Total		**55,23,67,690**	**51,17,84,710**	**6,52,00,000**	**100%**

3. We heard the learned counsel appearing for the Liquidator and perused the relevant documents placed on record we find that no further assets are left to be utilized and/or disposed of for

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recovery of dues of the Stakeholders and that nothing remains in the Liquidation Process of the Corporate Debtor and the bank account pertaining to the Corporate Debtor has been closed.

4. In view of the above and documents placed on record, in the exercise of the powers conferred under section 54(2) of the Code, we hereby order the dissolution of the Corporate Debtor viz., Vindhya Vasini Industries Ltd. from the date of this order. The Corporate Debtor stands dissolved.

5. As a consequence, the Liquidator Mr. Sanjay Gupta is discharged from his duties and responsibilities as the Liquidator of the Corporate Debtor.

6. 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 Registrar of Companies, Chhattisgarh along with all the books and files of Vindhya Vasini Industries Ltd.

7. A copy of this order shall also be forwarded to the IBBI, and concerned parties for their record.

8. Accordingly, IA (IB) No. 189/CB/2022 **is allowed** in terms of the above order and TP No. 210/CTB/2019 is hereby **closed**.

Sd-

Kaushalendra Kumar Singh
Member (Technical)

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Deep Chandra Joshi
Member (Judicial)

Kaushik_LRA