NATIONAL COMPANY LAW TRIBUNAL
BENCH-1, HYDERABAD

IA No. 901 of 2024

In

C.P.(IB)NO. 157/9/ HDB/2021

APPLICATION FILED UNDER SECTION 35 (1)(N) & SECTION 60(5)(C) OF IBC, 2016, READ WITH REGULATION 45 (3)(A) OF THE IBBI (LIQUIDATION PROCESS) REGULATIONS, 2016.

IN THE MATTER OF

SHRI AERUVA NAGA MALLIKARJUN VS ICOAT PROJECTS PRIVATE LIMITED

(IN LIQUIDATION)

FREE OF COST COPY

Filed by

Murali Mohan Chevuturi
Liquidator of ICOAT Projects Private Limited
IBBI/IPA-003/00307/2020-2021/13464 .... Applicant

Date of order: 14.06.2024

Coram:

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial

Shri Charan Singh, Hon'ble Member Technical

Appearance:

For Applicant: Shri Varun Ambati, Advocate

PER: BENCH

O R D E R

1. This Application is filed under Section 35(1)(N) and Regulation 45 (3) (a) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 by the Applicant / Liquidator seeking closure of Liquidation process of **M/s ICOAT PROJECTS PRIVATE LIMITED/** Corporate Debtor as the Corporate Debtor is sold as "a going concern" in Liquidation.

2. The averments in the Application in brief is that this Tribunal vide Order dated 23.03.2022, initiated the Corporate Insolvency Resolution Process ("**CIRP**") of the Corporate Debtor Company. Since the resolution of the Company was unsuccessful, the Committee of Creditors ("**COC**") of the Corporate Debtor Company in the 13th COC meeting held on 10.04.2023 decided to liquidate the Corporate Debtor as per Sec 33(1) (a) of the IBC, 2016. Accordingly, vide Order dated 26.05.2023 in IA(IBC) No. 682/2023, this Tribunal ordered Liquidation Proceedings against the Corporate Debtor Company.

3. In compliance of Regulation 12(1) of the IBBI (Liquidation Process) Regulations, 2016, the Applicant issued Public Announcement, on

06.06.2023, calling for claims as on the liquidation commencement date, by 27.06.2023.

4. Pursuant to verification and collation of the claims received, the Liquidator constituted the Stakeholders' Consultation Committee (SCC) and the List of Stakeholders as per Regulation 31 of the IBBI (Liquidation Process) Regulations, 2016, submitted to this Tribunal vide IA(IBC) No. 1265/ 2023, was taken on record on 18.08.2023.

5. Complying Regulation 13 and Regulation 34 of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator prepared the Preliminary Report and the Asset Memorandum, and submitted the same to this Tribunal vide IA (IBC) No. 1480/2023. The same was taken on record by this Tribunal on 14.09.2023.

6. The Liquidator complying with Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016, submitted the Progress Reports for the quarters ending June 2023, September 2023, December 2023 and 31st March 2024.

7. The Liquidator, pursuant to a decision taken in the 1st meeting of the Stakeholders' Consultation Committee (SCC) on 03.08.2023, had

issued Sale Notice on 04.08.2023 for the sale of the Corporate Debtor as a going concern, and the E-Auction date was fixed as 27.08.2023.

8. It is humbly submitted that in response to the Sale Notice dated 04.08.2023, the Liquidator received two bids, i.e., one from Shri Ballari Srinivas Rao, from Hyderabad and the other from Shri Aravind Agarwal, from Indore. In the E-Auction process, Shri Ballari Srinivas Rao emerged as successful bidder with bid price of Rs 40,00,000/-.

9. Consequent upon successful completion of E-Auction on 27.08.2023, the Liquidator issued Letter of Intent to the Successful Bidder on 29.08.2023, advising him to pay the balance of the Bid amount, i.e., Rs 36.00 lakhs (after netting the EMD) within 30 days. In compliance to the terms of Letter of Intent, the Successful Bidder remitted Rs 36.00 lakhs on 26.09.2023, i.e., within 29 days in one lumpsum from the date of Letter of Intent.

10. On receipt of the total consideration, the Liquidator herein issued Sale Certificate to the Successful Bidder on 03.10.2023. A copy of the Sale Certificate is annexed and marked as **Annexure-IV.**

11. It is averred that during the CIRP process, the Liquidator herein filed application IA (IB) No. 962 of 2022 under Sections 43 and 66 of the Insolvency and Bankruptcy Code, 2016 against the ex-management of the Corporate Debtor Company. This Tribunal vide its Order dated 04.01.2024 allowed the Application partially ordering avoidance of transactions valued at Rs 13,74,585/- (Rupees Thirteen Lakhs Seventy-Four Thousand Five Hundred and Eighty Five Only). It is further stated that, subsequently the Liquidator was able to recover an amount Rs 10,00,000/- (Rupees Ten Lakhs Only) from the ex-management i.e., the Respondents in IA (IB) No. 962 of 2022. The Ld. Counsel for the Liquidator has clarified that in order to avoid multiplicity of transactions, the promoters of the Corporate Debtor were informed by the Liquidator to pay an amount of Rs. 10,00,000/- only, since the claims of all the creditors have been satisfied completely, and there was no necessity for recovery of additional Rs. 3,74,585/-, as any excess amount recovered from the Respondents in IA 962/2022 would have to be returned to the Respondents (who are the promoters) itself as per provisions of Section 53 of the Code.

12. It is submitted that with the sale proceeds of Rs 40,00,000/- and the amount received/recovered under avoidable transactions to the tune of Rs 10,00,000/-, totaling Rs 50,00,000/- was distributed to the stakeholders as laid down in Section 53 of IBC, 2016, to the stakeholders of the Corporate Debtor. The details of such distributions are furnished as under.

A. Amounts Realised:		
1.	Proceeds from Sale of Corporate Debtor as Going Concern	40,00,000
2.	Recoveries made from Avoidable Transactions	10,00,000
3.	Revenue generated in the Liquidation process as a going concern	16,48,900
	Less: Liquidation Costs (Sec 53(1)(a) (After meeting from the revenue of the Corporate Debtor)	20,53,734
Total (A)		**45,95,166**

B. Amount Distributed to Creditors:

No.	**Name of the Creditor**	**Amount of Admitted Claim (Rs)**	**Amount Distributed (Rs)**
1.	Shri A.N. Mallikarjuna (Secured Creditor – U/s 53(1)(b)(ii)	45,40,084	45,40,084
2.	EPF, Hyderabad (Secured Creditor – U/s 53(1)(e)(i)	11,527	11,527
3.	ESIC, Hyderabad	43,555	43,555

	(Secured Creditor – U/s 53(1)(e)(i)		
Total		**45,95,166**	**45,95,166**
Balance (A-B)			

13. The Liquidator states that accounts of the Corporate Debtor were audited for the liquidation period (from 26.05.2023 to 14.04.2024), as provided under Regulation 15(3) of the IBBI (Liquidation Process) Regulations, 2016 and copy of accounts certified by Chartered Accounts is annexed and marked as **Annexure-VI.**

14. Thus submitting, the Liquidator prayed for ordering closure of the Liquidation Process of the Corporate Debtor under Regulation 45 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, as the Corporate Debtor is sold as a going concern.

15. We heard the Ld. Counsel for the Liquidator Mr. Varun Ambati and perused the record.

16. Regulation 45 of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 reads as under:-

Regulation 45: Final report prior to dissolution.

(1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor's assets have been liquidated.

(2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.

(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; or (b) for the dissolution of the corporate debtor, in cases not covered under clause (a).]

17. The Ld. Counsel for the Liquidator submits that, pursuant to public announcement for e-auction dated 27.08.2023, Shri Ballari Srinivas Rao was declared as successful bidder to acquire the Corporate Debtor as a going concern for a bid amount of Rs. 40 lakhs. On-going through the facts aforementioned and the material placed along with the *Application*, it is evident that the assets of Corporate Debtor were sold to Shri Ballari Srinivas Rao for Rs.40,00,000/- as a going concern, as against the average valuation of the Liquidation Estate of the Corporate Debtor as per valuers' report which is @ Rs. 35.49 lakhs only. It is seen from Form-H that the amount of Rs. 40 lakhs realized from the sale was distributed among the stakeholders as per Section 52 or 53 of the Code. The details of distribution of the realized amount is mentioned at page 4 of the Final Report. Further on going through

the final report, 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.

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

19. 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 ICOAT Projects Pvt Ltd** which are in possession of the Liquidator to the successful bidder.

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

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

22. In terms of the above, IA No. 901 of 2024 filed by the Liquidator appointed for M/s ICOAT Projects Pvt Ltd (Corporate Debtor) for closure of Liquidation Process of the Company under Regulation 45 (3)(a) of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 stands disposed of accordingly.

14-06-2024

14.6.24

(Charan Singh)
MEMBER (TECHNICAL)

(Dr. N.Venkata Ramakrishna Badarinath)
MEMBER (JUDICIAL)

Binnu

K. Sanjin 03/07/2024

Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER CP(IB)No.157/9/HDB/2021.
निर्णय का तारीख
DATE OF JUDGEMENT 14/6/24.
प्रति तैयार किया गया तारीख
COPY MADE READY ON 3/7/24