



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

IA (IB) No.1706/KB/2022

in

CP (IB) No.891/KB/2018

An application under section 35(1)(n) and section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

In the matter of:

Punjab National Bank ... *Financial Creditor*

Versus

Divine Vidyut Limited

...

Corporate Debtor

And

In the matter of:

**Rajesh Kumar Agrawal, the Liquidator of
Divine Vidyut Limited**

...

Applicant

Order pronounced on: 15 June, 2023

Coram:

Shri Rohit Kapoor : Member (Judicial)

Shri Balraj Joshi : Member (Technical)

Appearances (through video conferencing):

For the Applicant : Mr. Rajesh Kr. Agarwal,
Liquidator
Mr. Subodh Kr. Agarwal, CA.

ORDER

Balraj Joshi, Member (Technical)

1. This Court convened through video conferencing.
2. This Interlocutory Application has been filed under section 35(1)(n) and section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I

IOB v. D.C. Industrial Plant Services Pvt. Ltd.
IA (IB) No.1706/KB/2022 in CP (IB) No.891/KB/2018

- regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“Liquidation Process Regulations”) by Mr. Rajesh Kumar Agrawal, Liquidator of Divine Vidyut Limited (“Corporate Debtor”) praying for closure of liquidation process of the Corporate Debtor as the Corporate Debtor has been sold as a going concern to M/s Shah Sponge and Power Limited, under regulation 32A read with regulation 45(3) of the Regulations *ibid*.
3. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (“CIRP”) *vide* order dated 19th September 2019 by this Adjudicating Authority on a petition filed by Punjab National Bank under section 7 of the Code, registered as CP (IB) No.891/KB/2018.
 4. Thereafter, *vide* order dated 26th February 2021 ¹, liquidation of the Corporate Debtor was initiated and Mr. Rajesh Kumar Agrawal, the Applicant was appointed as the Liquidator.
 5. The liquidation period was later extended by a period of six (06) months *i.e* upto 28 December 2022 *vide* this Adjudicating Authority’s order dated 12 August 2022 ².
 6. In accordance with regulation 12 of the Liquidation Process Regulations, the Liquidator issued Public Announcement in Form B on 13 March 2021 in *The Telegraph* (English) and *Ananda Bazar Patrika* (Bengali) (Kolkata editions) and *The Times of India* (English) and *Prabhat Khabar* (Hindi) (Jharkhand editions).
 7. The Liquidator formed the Stakeholders Consultation Committee (“SCC”) of the Corporate Debtor after verification of claims on 07 May 2021 and the list of members of the SCC was filed before this Adjudicating Authority on 15 May 2021.
 8. The preliminary report and the asset memorandum was filed before the Adjudicating Authority on 24 May 2021. In the first SCC meeting held on 20 May 2021, all the stakeholders consented to the sale of the

¹ Annexure A of the IA

² Annexure E of the IA



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I

IOB v. D.C. Industrial Plant Services Pvt. Ltd.
IA (IB) No.1706/KB/2022 in CP (IB) No.891/KB/2018

- Corporate Debtor as a going concern as per the regulation 32(e) regulation 32A of the IBBI (Liquidation Process) Regulations, 2016.
9. Thereafter, this adjudicating Authority *vide* order dated 21 June 2021, allowed the period for sale of Corporate Debtor as going concern to be extended by 90 days i.e from 01 July 2021.
 10. In the 3rd SCC meeting held on 28 June 2021, the stakeholders advised that the reserve price for the sale of the Corporate Debtor by the way of E-Auction be set at ₹32,00,00,000/-. Accordingly, sale notice was published on 05 July 2021. The last date of submission of EOI was 12 July 2021 and was later extended two times. Till the last date, EoI was received from four (04) participants who were eligible to participate in the sale process. However, no EMD was received from any of the participants till the last date of receiving the EMD.
 11. After multiple failed E-Auctions, the stakeholders in the 14th SCC meeting held on 16 March 2022 advised that the reserve price for the sale of the Corporate Debtor by the way of E-Auction be reduced to ₹22,20,00,000/-. Accordingly, the 9th time sale notice was published on 21 March 2022. The last date of submission of EOI was 04 April 2022. The last date of submission of EMD was 12 April 2022. Till the last date, EoI and thereafter EMD was received from two (02) participants.
 12. In the E-Auction held on 29 April 2022, M/s Shah Sponge and Power Limited was declared as the Successful Bidder. Accordingly, Letter of Intent (LoI) was issued to the successful bidder on 02 May 2022 which was unconditionally accepted by them. The entire sale consideration was paid by the Successful Bidder within the period of 90 days excluding interest on delayed payment. The liquidator issued the sale certificate to the Successful Bidder and handed over the physical possession of assets of the Corporate Debtor on 08 September 2022.
 13. On receipt of the entire sale consideration of ₹22,20,00,000/-, the Liquidator has distributed the amount amongst the Stakeholders as per



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I

IOB v. D.C. Industrial Plant Services Pvt. Ltd.
IA (IB) No.1706/KB/2022 in CP (IB) No.891/KB/2018

section 53 of the Code. The Liquidation account maintained in the name of the Corporate Debtor has been closed after distribution.

14. The Liquidator has submitted his Final Report³ as per regulation 45 of the Liquidation Process Regulations and Form H⁴, *i.e.*, Compliance Certificate under regulation 45(3) of the Liquidation Process Regulations dated 27 December 2022. Since the CD has been sold as a going concern, there is no need to dissolve the CD.
15. In view of the above facts and circumstances, we allow the closure of the Liquidation Process of the Corporate Debtor.
16. The Liquidator shall stand discharged from his responsibilities, subject to procedural compliances.
17. IA (IB) No.1706/KB/2022 and CP (IB) No.891/KB/2018 shall both stand disposed of accordingly.
18. The Registry is directed to email copies of the order forthwith to the learned Counsel on record and the Liquidator for information.
19. Certified copies of this order may be issued, if applied for, upon compliance of all requisite formalities.
20. File be consigned to the record.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order dated the 15th day of June 2023

SM(LRA)

³ Annexure I of the IA

⁴ Annexure J of the IA