

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (Court – I)
KOLKATA**

**IA(IBC)906(KB)2023
In
CP(IB)/1369(KB)2018**

*An application under section 54(1) of the Insolvency and Bankruptcy Code, 2016
read with Regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016.*

In the matter of:

Sydarshan Agencies Private Limited;

...*Financial Creditor*

-*Versus*-

LTS Plastics (India) Private Limited;
(CIN: U25209WB1997PTC085891)

...*Corporate Debtor*

*Represented by its Liquidator –
Mr. Sanjeev Jhunjunwala;*

.... *Applicant*

Date of Pronouncement: 21/12/2023

Coram:

Shri Rohit Kapoor

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

Appearances through hybrid mode:

For the Applicant/Liquidator

: Mr. Shaunak Mitra, Adv.

For Falta SEZ

: Mr. Raja Satyajit Banerjee, Adv.
Ms. Krishna Chatterjee, Adv.

ORDER

Per: Balraj Joshi, Member (Technical)

1. This Adjudicating Authority convened through hybrid mode.

2. **IA(IBC)/906(KB)2023** is an application filed under section 54(1) of the Insolvency and Bankruptcy Code, 2016 (*hereinafter called the “Code”*) read with regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016 (*hereinafter called the “Regulations 2016”*) by the Liquidator of **LTS Plastics (India) Private Limited** (*hereinafter called the “Corporate Debtor”*) praying for dissolution of the Corporate Debtor. This application is duly supported by an affidavit¹ affirmed by the Liquidator.
3. This Adjudicating Authority *vide its* order dated 09/08/2019 on a Petition filed by Sydarshan Agencies Private Limited. (*Financial Creditor*) under section 7 of the Code read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 directed initiation of the Corporate Insolvency Resolution Process (*hereinafter called the “CIRP”*) against **LTS Plastics (India) Private Limited** (*Corporate Debtor*) appointing Mr. Hrishikesh Das Gupta, an Insolvency Professional as Interim Resolution Professional (*hereinafter called the “IRP”*). Liquidation order² was passed on 18/03/2021 appointing Mr. Sanjeev Jhunjhunwala, the applicant, as the Liquidator.
4. This Adjudicating Authority *vide* following orders has granted exclusion/extension:

Date of Order	IA(IBC) No.	Exclusion/Extension
09/08/2021	605(KB)2021	120 days exclusion
11/08/2022	727(KB)2022	90 days extension
20/12/2022	1372(KB)2022	Further 90 days extension
18/01/2023	111(KB)2023	Further 90 days extension

Taking into consideration of the above exclusion and extensions the liquidation period has ended on 12/04/2023. Copies of the aforesaid orders form **Annexure ‘2’**³.

¹ At pages 16 and 17 of the application

² Annexure “1” at pages 18 to 22 of the application

³ At pages 23 to 29 of the application

5. The Liquidator has duly filed Asset Memorandum comprising of (a) Building; (b) Plant & Machineries and (c) Securities & Financial Assets including other moveable assets⁴.
6. As per regulation 41 of the Regulations 2016, the Liquidator had duly opened a liquidation account being **A/c.No.0389202100000018** in the name of **“Liquidation A/c. LTS Plastics (India) Private Limited”** with the Punjab National Bank, 11 Hemanta Basu Sarani, Kolkata 700001 on 25/03/2021.
7. In compliance of regulations 13 and 34 of Regulations 2016, the Liquidator had duly prepared and filed with this Adjudicating Authority Preliminary Report and Asset Memorandum respectively on 22/05/2021 (original) and 22/03/2022 (revised).⁵
8. Efforts were made for selling the unit as a going concern under regulation 32(e) and for slump sale, comprising of Building, Plant Machinery & other movable assets under regulation 32(b) of Regulations, 2016, as desired by the SCC. Accordingly, four e-auctions notice were published on 21/09/2021, 11/10/2021, 02/12/2021 and 16/12/2021 as follows⁶:-

Auction No.	Date of Sale Notice	Date of Auction	Reserve price Rs. Crore	Mode of sale 32(e) or 32(b)	“S” denotes Successful / “U” denotes Unsuccessful	Reasons
1	06/09/2021	21/09/2021	6.345	32(e)	U	No bid recd.
2	24/09/2021	11/10/2021	4.76	32(e)	U	No bid recd.
3	20/11/2021	02/12/2021	4.284	32(e)	U	No bid recd.
				32(b)	U	No bid

⁴ Averments in para 3 at page 10 of the application

⁵ Annexure 1U to Final Report (Form H) at pages 125 to 131 of the application

⁶ Averments in para 4 at page 10 of the application

						recd.
4.	03/12/2021	16/12/2021	3.8556	32(e)	U	No bid recd.
				32(b)	S	BDG Polysteel Ltd. was declared successful bidder at reserve price of Rs.3.8556 Crores

The sale proceeds were received in full on 22/03/2022 along with interest of Rs.5,51,404/- for payment made after 30 days by the successful bidder, BDG Polysteel Limited, Kolkata. The amount was distributed u/s.53 amongst the stakeholders on 24/03/2022. Sale & Possession Letter was issued to the successful bidder on 24/03/2022⁷. Copy of Distribution Sheet and Sale & Possession Letter issued to successful bidder, BDG Polysteel Limited form **Annexure ‘3’**⁸

9. The applicant has received a letter on 20/04/2022 from the suspended members of the Board of Directors of the Corporate Debtor informing that refund of electricity duty may be claimed by the Corporate Debtor for the electricity charges paid during the period from September 2007 to February 2017, as the unit was located in Falta SEZ. The Liquidator immediately took steps to recover the same and applied for refund of the same with the Directorate of Electricity Duty. After diligently following-up the matter with the Electricity Department, the Finance Dept., Govt. of West Bengal on 20/03/2023 issued order to refund the amount of electricity duty paid in excess by the consumer to the licensee. Copy of the order passed by the Finance Dept. forms **Annexure ‘4’**⁹. The amount of Rs.1,90,55,535/- towards refund of electricity duty was duly credited to the liquidation account on

⁷ Averments in para 5 at page 11 of the application

⁸ At pages 30 to 39 of the application

⁹ At pages 40 to 42 of the application

27/03/2023 and the same was distributed to the Punjab National Bank, only stakeholder, as per section 53 of the Code. The distribution details of the electricity duty refund along with liquidator's fees forms **Annexure '5'**¹⁰.

10. It was decided at the 11th and 15th SCC meetings held on 10/10/2022 and 29/03/2023 that the avoidance applications u/s. 43 to 66 of the Code to be continued after passing of dissolution order, and that the same shall be pursued by the Punjab National Bank and any realisation shall also go to Punjab National Bank. Accordingly, necessary order was passed on 29/09/2023 in IA(IBC)/1632(KB)2023 and IA(IBC)/1636(KB)2023 allowing replacement of name of Mr. Sanjeev Jhunjunwala with Punjab National Bank in IA(IBC)/754(KB)2020 and IA(IBC)/863(KB)2020 respectively. Copy of minutes of 11th and 15th SCC meetings form **Annexure '6'**¹¹.
11. It is stated in the application that all the assets of the Corporate Debtor have been realised and the amount has been distributed to the stakeholder. A statement showing realisation on sale of assets and distribution thereof forms **Annexure '7'**¹².
12. The Liquidator has shown in the application estimated liquidation value and realisation amount vis-à-vis breakup of amount realised, liquidation costs (inclusive of liquidator's fees and provision for expenses) and amount distributed to stakeholder.¹³
13. The Liquidator has duly annexed with the application copy of statement of bank account maintained with Punjab National Bank during CIRP period as well as Liquidation period, which forms **Annexure '8'**¹⁴.

¹⁰ At pages 43 of the application

¹¹ At pages 44 to 53 of the application

¹² At pages 54 of the application

¹³ Para 10 at pages 12 and 13 of the application

¹⁴ At pages 55 to 58 of the application

14. The Liquidator has annexed closure certificate of liquidation account being **A/c.No.0389202100000018** issued by the Punjab National Bank, 11, Hemanta Basu Sarani, Kolkata maintained in the name “Liquidation A/c LTS Plastics (India) Pvt. Ltd.” certifying that the said account has been closed after the balance become “**zero**” along with statement of account¹⁵.

15. The Liquidator duly intimated to the following statutory authorities, as applicable,¹⁶:

Sl.No.	Name of the statutory authority	Date of intimation
a)	PF	23/03/2021
b)	ESI	08/04/2022
c)	Income Tax Dept.	25/01/2022
d)	Inspector of Factory (Falta SEZ)	23/03/2021
e)	GST/VAT/Ptax	17/12/2021
f)	RoC/RD	23/03/2021

16. The Liquidator had held fifteen SCC meetings altogether and in compliance of regulation 15 of the Regulations 2016, the Liquidator had filed nine Periodical Progress Reports from time to time before this Adjudicating Authority.

17. As per Form H submitted by the Liquidator, application u/s. 43 to 66 shall be pursued by the financial stakeholder, Punjab National Bank and they shall be beneficiary of any proceeds that come out from the application.¹⁷

18. In terms of regulation 45(3) of the Regulations 2016, the Liquidator has also filed **Final Report**¹⁸ and Compliance Certificate in **Form H**¹⁹ as well as a copy of **Bank Statement**²⁰ showing “**zero**” balance in the liquidation account.

19. The Liquidator in the **Final Report** has annexed the following documents: -

¹⁵ Annexure ‘C’ at pages 8 to 11 of the affidavit affirmed on 04/08/2023

¹⁶ Annexure ‘1-V’ to Final Report (Form H) at pages 125 to 131 of the application

¹⁷ Annexure ‘1-V’ to Final Report (Form H) at pages 125 to 131 of the application

¹⁸ Annexure ‘10’ at pages 60 to 131 of the application

¹⁹ Annexure ‘1-V’ to Final Report at pages 125 to 131 of the application

²⁰ Annexure ‘C’ at pages 8 to 11 of the affidavit affirmed on 04/08/2023

Sl. No	Particulars	Annexure No.	Page Nos
1.	Liquidation order dated 18/03/2021	“1-A”	69-73
2.	Newspaper publication in Form B dt.22/03/2021	“1-B”	74-75
3.	List of Stakeholders & newspaper publication dated 24/05/2021	“1-C”	76-80
4.	Orders dated 09/08/2021 for exclusion of 120 days	“1-D”	81
5.	Minutes of 4 th meeting of SCC where the decision with respect to auction of the CD as a going concern at a reserve price of Rs.6.345 crores taken	“1-E”	82-85
6.	Copy of Sale Notice dated 06/09/2021	“1-F”	86-87
7.	Copy of Distribution Sheet	“1-G”	88
8.	Copy of order dated 11/08/2022 for extension of 90 days	“1-H”	89-90
9.	Copy of Minutes of 11 th SCC meeting dt.10/10/2022	“1-I”	91-95
10.	Copy of order dated 20/12/2022 for extension of 90 days	“1-J”	96-97
11.	Copy of order dated 18/01/2023 for extension of 90 days	“1-K”	98-99
12.	Copy of the order dated 20/03/2023 of the Finance Department, Govt. of West Bengal	“1-L”	100-102
13.	Copy of distribution details of the electricity duty refund along with liquidator’s fees	“1-M”	103
14.	Copy of Minutes of 15 th SCC meeting dt.29/03/2023	“1-N”	104-108
15.	Copy of the order dated 10/04/2023 for withdrawal IA(IBC)/1374(KB)2022 since receipt of refund of Electricity Duty.	“1-O”	109-110
16.	Realisation & Distribution Statement to Stakeholder	“1-P”	111
17.	Letter dated 20/04/2023 of HDFC Bank, BA-3 to BB-22, Salt Lake, Sector 1 intimating closure of A/c. No. 01182560001810.	“1-Q”	112-113
18.	Copy of closure letters dated 05/04/2023 & 12/04/2023 to DBS Bank, 4, Little Russell Street, Kolkata together with e-mails exchanged	“1-R”	114-118
19.	Bank statement of the Liquidation Account as on 28/04/2023	“1-S”	119
20.	Audited Receipts & Payment for the period from 01/04/2023 to 28/04/2023	“1-T”	120-123`
21.	Statement of cumulative Receipts & Payments	“1-U”	124
22.	Compliance Certificate in Form H	“1-V”	125-131

20. Vide order²¹ dated 17/07/2023, this Adjudicating sought certain clarifications from the Liquidator. In compliance of the said order, the Liquidator has filed an affidavit affirmed on 04/08/2023 submitting that the DBS Bank, Kolkata Branch was duly closed on 18/05/2023 and the balance amount of Rs.6,998.61 was transferred to liquidation account maintained with PNB, Hemanta Basu Sarani, Kolkata 700001, which forms **Annexure ‘B’** to the said affidavit. The Liquidator has also annexed to the said affidavit a certificate dated 31/07/2023 issued by PNB along with statement of account with regard to liquidation account, which forms **Annexure ‘C’** to the said affidavit.
21. It is also submitted by the Ld. Counsel for the Liquidator that the affairs of the Corporate Debtor were completely liquidated after realising the assets and distribution of assets has been made in compliance of section 53 of the Code.
22. Upon hearing the Ld. Counsel appearing for the Liquidator and perusing the documents annexed to the application, it appears that affairs of the Corporate Debtor have been completely wound up and its assets have been completely liquidated. The bank account has also been closed.
23. Since, the Punjab National Bank, sole Secured Financial Creditor and member of the SCC has agreed to pursue the IA(IBC)/754(KB)2020 and IA(IBC)/863(KB)2020 filed u/s. 43 to 66 of the Code against the suspended members of the Board of Directors of the Corporate Debtor, which are pending before this Adjudicating Authority, and that this Adjudicating Authority vide its order dated 29/09/2023 has allowed substitution of the name of Mr. Sanjeev Jhunjhunwalla with Punjab National Bank as an applicant in IA(IBC)/754(KB)2020 and IA(IBC)/863(KB)2020, and in view of the facts and circumstances stated above, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly. However, keeping in view of the pendency

²¹ Annexure ‘A’ to the affidavit affirmed on 04/08/2023

of IA(IBC)/754(KB)2020 and IA(IBC)/863(KB)2020, **the main C.P. shall not be disposed of.**

24. The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within **fourteen days** of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
25. The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.
26. **IA(IBC)906(KB)2023** in **CP(IB)/1369(KB)2018** is allowed with the above directions and is accordingly **disposed of.**
27. **CP(IB)/1369(KB)2018** along with **IA(IBC)/754(KB)2020** and **IA(IBC)/863(KB)2020** are already posted on **08/12/2023.**
28. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
29. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

(Balraj Joshi)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Signed on this, the 21st day of December, 2023.

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