IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-208
(IB)-546(PB)/2018
IA-5994/2021

IN THE MATTER OF:
Volkswagan Finance Pvt. Ltd. **....Applicant**
Vs.
Sterling Vehicles & General sales Pvt. Ltd. **.....Respondent**

SECTION
U/s 7 of (IBC) in Liq. **Order delivered on 10.11.2023**

CORAM:
SHRI MAHENDRA KHANDELWAL,
HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR,
HON'BLE MEMBER (TECHNICAL)

PRESENT:
For the Applicant :
For the Respondent :

ORDER

Order pronounced in open Court vide separate sheets. IA-5994/2021 is **allowed.**

Sd/-
(RAHUL BHATNAGAR)
MEMBER (T)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-V, NEW DELHI BENCH

IA NO. 5994/2021
IN
CP IB NO. 546/PB/2018

An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016.

IN THE MATTER OF:

LIQUIDATION PROCEEDINGS OF STERLING VEHICLES & GENERAL SALES PRIVATE LIMITED

AND

IN THE MATTER OF:

VOLKSWAGEN FINANCE PRIVATE LIMITED **...Applicant**
3rd Floor, Silver Utopia, Cardinal Gracious Road,
Off. Andheri Kurla Road, Chakala
Andheri (East), Mumbai-400099

VERSUS

STERLING VEHICLES & GENERAL SALES PRIVATE LIMITED
6-A, Tata Apartments,
23, Prithviraj Road, New Delhi-110001 **...Respondent**

Order Delivered on: 10.11.2023

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant/Liquidator : Mr. Neeraj Kumar Gupta, Adv.
For the Respondent :

ORDER

PER: RAHUL BHATNAGAR, MEMBER (TECHNICAL)

1. The present I.A. No. 5994 of 2021 is an application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 **("Code")** along with Rule 11 of the NCLT, Rules, 2016. The present application is preferred by **Mr. Sunil Prakash Sharma** ("**Applicant"),** the Liquidator of **M/s Sterling Vehicles & General Sales Private Limited**, for selling the remaining/left-over assets of the Corporate Debtor by way of private sale under Regulation 33(2)(d) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2020 (hereinafter referred to as "Liquidation Regulations").

2. The Applicant has made the following prayer in the application:

   Pass an order permitting the Liquidator to sell the remaining assets comprising of old and broken plant & machinery and old spare parts of Audi car by way of private sale to any of the stakeholder and/or other buyer who is ready and willing to pay equivalent to or more than Rs. 15,00,000 (Rs. Fifteen Lacs only).

3. Briefly stated the facts of the case as mentioned in the instant application, which are just and necessary for adjudication, are as follows:

   (i) That this Adjudicating Authority, vide its order dated 08.11.2019 passed in CA No. 1637/PB/2019 in CP IB No. 546/PB/2018 appointed the Applicant as the Liquidator for the purpose of Liquidation of the Corporate Debtor. The order of appointment of Liquidator was communicated to the Applicant on 27.11.2019.

   (ii) That the Applicant published the Form-B in English Daily "Financial Express' Delhi-NCR Edition and Hindi Daily "Jansatta" Delhi-NCR Edition on 01.12.2019 and the same was sent via email on 05.12.2019 and 12.12.2019 to the designated email id of the IBBI for uploading on the website of IBBI.

(iii) That claims in Form-D were received from the following stakeholders:

Sl No	Name of Stake-holder	Total Claim In Rupees	Secured/ Unsecured Creditor
1.	Indiabulls Asset Reconstruction Company Limited (Financial Creditor)	34,79,93,170/-	Unsecured Creditor
2.	Volkswagen Finance Pvt. Ltd. (Financial Creditor)	26,44,24,913/-	Unsecured Creditor
3.	Suraksha Asset Reconstruction Pvt. Ltd (Financial Creditor)	24,51,95,739/-	Unsecured Creditor
4.	Supreme Motors Pvt. Ltd. (Operational Creditor)	13,86,67,609/-	Unsecured Creditor
5.	IDI Designs Pvt. Ltd. (Operational Creditor)	1,07,24,425/-	Unsecured Creditor

iv) That the Audi is a niche brand which only caters to those who are economically well off and hence, they would never accept that their vehicles be refitted with old spare parts.

v) That despite of all the odds, the Liquidator has managed to sell the majority of the assets at a reasonable price, which is not only sufficient to meet out the CIRP and Liquidation expenses/cost but the Financial Creditors will also be able to recover a tiny bit of their respective dues.

vi) That the Liquidator published many sale notices in the English Daily "Financial Express' Delhi-NCR Edition and Hindi Daily "Jansatta" Delhi-NCR Edition on 27.02.2021, 16.03.2021, 13.04.2021, 08.06.2021, 24.06.2021, 28.07.2021, 08.09.2021 and 13.10.2021 by reducing the reserve price by 10% at a time as provision 4B of Schedule I of the Liquidation Regulations.

vii) That pursuant to the sale notices, many prospective buyers visited and inspected the assets but none of the prospective buyer is ready and willing to buy the old and broken machinery and old spare parts for more than Rs. 15,00,000 (Rs. Fifteen Lacs), whereas, as per the sale notice dated 13.10.2021, the reserved price of such old assets is Rs. 41.25 Lacs.

viii) That despite of publication of several sale notices/auction notices, the liquidation of the Corporate Debtor is not completed since more than 2 years for the want of sale of few parts of old and broken plant and machinery and old spare parts of Audi automobiles.

ix) That the assets of the Corporate Debtor remain unsold till date due to two reasons, firstly, the cost are on a higher side and secondly, most of the spare-parts are 5 to 7 years old and either they have become redundant or their shelf life and utility have reduced considerably over a period of time.

x) That the meeting of the Liquidator and the stakeholders of the Corporate Debtor was convened on 13.12.2021 to decide as to conducting the sale of the remaining assets of the Corporate Debtor through private sale at any rate which is either equal to or over Rs. 15,00,000.

xi) That, in the meeting dated 13.12.2021, the Liquidator proposed either to get the buyer who is willing to make better offer than Rs. 15,00,000 or any of the stakeholder may also purchase the old & broken assets of the Corporate Debtor.

xii) That during the course of meeting, Mr. Anuj Sanghi of Supreme Motors Private Limited showed his readiness and willingness to purchase the old & broken assets of the Corporate, however, withdrew his consent vide email dated 15.12.2021 and clarified to assist the liquidator in selling the assets.

xiii) That the Liquidator vide email dated 15.12.2021 sought consent of all the stakeholders that the remaining assets of the Corporate Debtor may be sold by way of private sale for any amount over and above Rs. 15,00,000 and if any suitable buyer is not found, then stakeholders shall have no objection if the remaining assets of the Corporate Debtor are purchased by Mr. Anuj Sanghi of Supreme Motors Private Limited.

4. We have gone through the Application filed by the Liquidator seeking permission to sell the assets of the Corporate Debtor through private sale.

5. Adverting to the facts of the present case, the Applicant published many sale notices dated 27.02.2021, 16.03.2021, 13.04.2021, 08.06.2021, 24.06.2021, 28.07.2021, 08.09.2021 and 13.10.2021 to conduct the sale of the remaining assets of the Corporate Debtor in full by reducing the reserve price by 10%. It is pertinent to mention that the reserved price of the assets compromising of old and broken machinery and old spare parts is Rs. 41.25 Lacs. However, no prospective buyer is ready and willing to purchase the remaining assets for more than Rs. 15 Lacs. Further, despite several attempts, the Liquidator could not complete the Liquidation process of the Corporate Debtor for more than 2 years for the want of a suitable buyer for the sale of old & broken assets of the Corporate Debtor. Therefore, the Liquidator, in order to fulfil his duties of Liquidator efficiently, took a decision with the stakeholders of the Corporate Debtor in a meeting dated 13.12.2021 to conduct the sale of the remaining assets of the Corporate Debtor by way of private sale.

6. It is pertinent to mention that Regulation 33 of the Liquidation Regulations enjoins upon the Liquidator to seek prior permission of the Adjudicating Authority to effect the private sale. It appears that in spite of several sale notices and auction notices, the Liquidator could not succeed in selling the assets of the Corporate Debtor. Therefore, in light of the above, keeping in mind the objective of IBC, 2016 i.e., maximization of value of assets, we allow the Liquidator to sell the remaining assets of the Corporate Debtor through private sale. While exploring the possibility of private sale, the Liquidator shall adhere to the provisions of the Insolvency and Bankruptcy Code, 2016 and the IBBI (Liquidation Process) Regulations, 2016, with an ultimate objective of maximizing the value of the assets.

7. Resultantly, the present application i.e., **I.A./5994/2021 stands allowed** and accordingly, disposed off.

Sd/-	**Sd/-**
(RAHUL BHATNAGAR)	**(MAHENDRA KHANDELWAL)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**