

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI**

IA(IBC)/389(CHE)/2023

IN

IBA/641/2019

***(Filed Under Section 54 of the Insolvency and Bankruptcy Board
of India (Liquidation Process) Regulations, 2016)***

In the Matter of

M/s. Food Express Industrial Catering Services Private Limited

Mr. Vengarai Seshadri Sowrirajan,
Liquidator of
M/s. Food Express Industrial Catering Services Private Limited,
C-2, Vijayarenga Apartments,
64, West Adayavalanchan Street,
Srirangam, Trichy – 620 006.

... Applicant

IN

Rational International India Private Limited

... Petitioner / Operational Creditor

Vs.

Food Express Industrial Catering Services Private Limited

... Respondent / Corporate Debtor

Order Pronounced on 28.04.2023

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : Mr. R. Rajesh, Advocate.

ORDER

Per: SANJIV JAIN, MEMBER (JUDICIAL)

This is an application filed by the RP seeking the following
prayers:



a) That this Hon'ble Adjudicating Authority may be pleased to order Dissolution of the affairs of the Corporate Debtor **FOOD EXPRESS INDUSTRIAL CATERING SERVICES PRIVATE LIMITED,**

b) That all and any consequent orders pursuant to the order of Dissolution of the said **FOOD EXPRESS INDUSTRIAL CATERING SERVICES PRIVATE LIMITED** be passed.

2. This Application under Section 54 of IBC read with the regulations of IBBI (Liquidation Process) Regulations 2016 has been filed by the Liquidator for passing an order of dissolution of affairs of the Corporate Debtor **Food Express Industrial Catering Services Private Limited [CIN: U15549TN2013PTC089645].**

3. We have heard Ld. Counsel for the Applicant / Liquidator and perused the report.

4. On an Application moved by the Operational Creditor i.e., Rational International India Private Limited under Sec. 9 of the IBC, Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor vide an order dated 03.09.2019.

5. On the Application filed by the Resolution Professional / Applicant this Tribunal passed an order on 13.03.2020 for liquidation of affairs of the Corporate Debtor and appointed the Applicant / RP as the Liquidator of the Company. The Applicant / Liquidator made the public announcement inviting the claims from the stakeholders



in Form B in the Newspapers i.e. News Today - Chennai Edition dated 21.03.2020 in English & Malai Sudar - Chennai Edition dated 21.03.2020 in Tamil as Annexure 2.

6. The Liquidator intimated the statutory authorities including Income Tax, Registrar of the Companies and Regional Director of Ministry of Corporate Affairs regarding the commencement of Liquidation. He appointed the registered valuers to value the vehicles belonging to the Corporate Debtor. However adopted the liquidation value in respect of other assets including land, plant and machinery of the Corporate Debtors since they were valued only a few months back and no much change had happened thereafter.

7. It is stated in the Application that after verification of claims, the admitted claim amount to Rs.8,81,713/- to the secured financial creditors and Rs.97,67,709/- to the Operational Creditors. It is also stated that the statutory authorities including Income Tax Department neither filed any claim nor responded to the public announcement. Thereafter, lockdown was imposed in view of Covid Pandemic with effect from 25.03.2020. He submitted the preliminary report, asset memorandum and quarterly progress reports to the Tribunal from time to time as required under Regulation 5 under IBBI. He also filed the list of stakeholders as required under regulation 31 of IBBI as Annexure 3. He published



the list of stakeholders as required under Regulation 31 in the Newspapers Business Standard, Chennai Edition in English and Makkal Kural, Chennai Edition in Tamil dated 10.10.2020 as Annexure 4.

8. It is stated that as per Regulation 31A of IBBI Stakeholders Consultation Committee was constituted on 15.10.2020 before whom the liquidator presented the status / progress of the liquidation. He appointed M/s. Antares Systems Ltd., Bangalore for e-auction of sale of assets of the Corporate Debtor and to this effect he got issued the public announcement in the newspapers. He conducted the e-auction on 17.04.2021, 28.05.2021, 10.06.2021 & 21.06.2021 and completed the sale of the assets. He realized the proceeds as per details in Annexure 5 and submitted the sale report to the Tribunal along with the progress report.

9. It is stated that the Employees State Insurance Corporation, Chennai vide letter dated 08.12.2020 filed a claim with the Liquidator for Rs.5,64,961/- which claim was not admitted by Liquidator since having no powers to admit such claim. Against his decision, ESI Corporation filed an application before the Tribunal and on the no-objection given by the Liquidator, the Liquidator was directed to consider the claim in accordance with the rules & Regulations vide order dated 21.02.2022. GST Department vide its

letter dated 19.04.2021 also filed a claim before the Liquidator for Rs.6,83,550/- which claim was also not admitted by the Liquidator on the same analogy. The GST Department also filed an application before the Tribunal and on the No-Objection given by the Liquidator the Tribunal vide order dated 21.02.2022 directed the Liquidator to process the claim in accordance with the rules & regulations.

10. It is stated that after due process the Liquidator rejected the claim of the ESIC vide letter dated 28.02.2022, Annexure 8 against which the ESIC did not prefer any appeal and therefore the said claim was not considered for distribution. The Liquidator however accepted the claim of GST Department for an amount of Rs.5,00,000/- vide letter dated 03.03.2022 which acceptance was not challenged by the GST Department.

11. It is stated that an appeal was filed by the Corporate Debtor prior to CIRP and Liquidation Process. Despite the request of the Liquidator for early hearing, the Income Tax Department did not dispose of the appeal which made the Liquidator proceed with the completion of the Liquidation Process to adhere to the timelines.

12. It is stated that since the business operation of the Corporate Debtor discontinued since 2018, no applications relating to

preferential, avoidance, undervalued or extortionate transactions were filed.

13. The Liquidator upon realization of proceeds from the sale of the entire assets of the Corporate Debtor and settlement of all payments towards the liquidation costs, made the financial distribution to the stakeholders as detailed below:

Sl. No.	Stakeholders under Section 53(1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed To the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a): CIRP Costs	4,44,886	4,44,886	4,44,886	100	
2	(a)Liquidation Cost including Liquidator Fee	14,77,395	14,77,395	14,77,395	100	
3	(b)(i)Workmen due for the period of 24 months preceding the Liquidation Commencement Date	0	0	0	0	
4	(b)(ii)Debts owed to a secured creditor who has relinquished security interest	8,81,713	8,81,713	8,81,713	100	
5	(c) Wages and unpaid dues owned to other than workmen to the period of 12 months preceding the Liquidation Commencement Date	0	0	0	0	
6	(d)Financial Debts owed to Unsecured Creditors	0	0	0	0	
7	(e)(i)any amount due to the Central and State Government in respect of the whole or any part of the period of two years preceding the Liquidation Commencement Date	12,48,511	6,83,550	6,83,550	54.75	Claim from Government Department amounting to Rs.6,83,550 fully admitted and settled. Claim from ESI Department amounting to Rs.5,64,961/-

						was rejected by the Liquidator and ESI Corporation accepted the decision of the Liquidator. Hence no distribution was made to the ESI Corporation
8	(e)(ii) Debts owed to a secured Creditor for any amount unpaid following the enforcement of security interest	0	0	0		Not Applicable
9	(e)Any remaining debts and dues	97,66,709	97,66,709	11,17,456	11.44	Dues Representing claims made by Operational Creditors and admitted by the Liquidator. The claimant got only partial amount.
10	(f) Preference Shareholders	0	0	0	0	The Corporate Debtor has no Preference Shareholders.
11	(g) Equity Shareholders	0	0	0	0	The Corporate Debtor has a Paid-up capital of Rs.1,00,000 contributed by two promoters and no amount is payable to them
	Total	1,38,19,214	1,32,54,253	46,05,000	33.33	

14. The Liquidator opened an account with the Indian Bank, Thillai Nagar Branch, Trichy on 02.11.2020 in the name of the Corporate Debtor – in Liquidation and routed all the transactions relating to the liquidation process to the said account. He closed the account on 25.11.2022 after the distribution to the stakeholders. He got certified the receipts / payments from the Chartered Accountant as Annexure 10.



15. In this case, as per Regulation 44 of IBBI the Liquidation process should have been completed within two years from the Liquidation commencement date i.e. by 12.03.2021. However, the Liquidator invoked Regulation 47A stating that the period of lockdown imposed by the Government in the wake of Covid – 19 may be excluded for the purpose of computation of timeline i.e., 25.03.2020 to 31.08.2020 and 26.04.2021 to 10.08.2021 (267 days).

16. It is stated that the extension of time for completing the liquidation process was extended by this Tribunal vide order dated 31.05.2022 granting the extension of time up to 25.11.2022 by which date the process was completed.

17. It is stated that the Corporate Debtors has been fully liquidated. He enclosed the final report as per Regulation 45 of IBBI Annexure 12 along with the Compliance Certificate in Form H as Annexure 13.

18. On a perusal of the Application and the records, we find that in the present case no resolution plan was taken by the CoC and it was resolved to liquidate the Corporate Debtor which was not functioning since 2018. The applicant / liquidator in accordance with the regulations under IBBI invited the claims of the stakeholders by giving wide publicity in the newspapers in English and Tamil as

mentioned above and also e-auctioned the assets of the Corporate Debtor by giving wide publicity in the newspapers. He collated the claims of all the stakeholders including that of ESIC, GST etc., and communicated his decision to the Authorities vide aforesaid letters. Records show that there was no objection / appeal on the decisions by the Liquidator on the claims admitted / rejected by the applicant / liquidator. Records also show that there was no avoidance / undervalued / preferential transactions in the present matter.

19. The liquidator has submitted the compliance certificate in Form H under Regulation 45(3) of IBBI as Annexure 13 giving all the details of the Liquidation process. As per the said details there were seven assets including vacant land of the Corporate Debtor (Sr. No.3) which was e-auctioned for a total amount of Rs.46,05,000/- as per the valuation reports, the Liquidation value was assessed as Rs.41,48,000/-. The details are reproduced as below:

DETAILS OF THE ASSETS AS PER ASSET MEMORANDUM AND FINAL SALE REPORT

Sl. No.	Assets	Mode of sale	Estimated Liquidation Value	Realisation Amount	Date of Transfer to Liquidation Account
(1)	(2)	(3)	(4)	(5)	(6)
1	Vehicle – Bharat Benz	E-Auction	3,08,000	3,30,000	17/05/2021



2	D.G. Set	E- Auction	4,00,000	4,25,000	17/05/2021
3	Rationale Cooking Centre with Tray	E-Auction	4,50,000	3,50,000	28/05/2021
4	Vehicles- Tanker	E-Auction	3,60,000	4,10,000	10/06/2021
5	Vehicles – I Sportz	E-Auction	80,000	2,05,000	20/06/2021
6	Vehicles – Maruti Alto	E-Auction	50,000	85,000	10/06/2021
7	Vacant Land	E-Auction	25,00,000	28,00,000	21/06/2021

- Liquidation value of the liquidation estate : Rs.41.48 Lakh
- Amount realized from sale of liquidation estate : Rs.46.05 Lakh

The Form H also shows the distribution of the amounts to the stakeholders as per section 52 & 53 of the code as reproduced below:

Sl. No.	Stakeholders under Section 53(1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed To the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a): CIRP Costs	4,44,886	4,44,886	4,44,886	100	Fully Settled
2	(a)Liquidation Cost including Liquidator Fee	14,77,395	14,77,395	14,77,395	100	Liquidation Cost Rs.13,46,773 And Liquidation Fee Rs.1,30,722
3	(b)(i)Workmen due for the period of 24 months preceding the Liquidation Commencement Date	0	0	0	0	The Company has no workmen as on the Liquidation Commencement Date
4	(b)(ii)Debts owed to a secured creditor who has relinquished security interest	8,81,713	8,81,713	8,81,713	100	The Lone Financial Creditor who filed claim got full settlement.
5	(c) Wages and unpaid dues owed to other than workmen to the period of 12 months preceding the Liquidation Commencement Date	0	0	0	0	The Company has no Employee as on Liquidation Commencement Date

6	(d) Financial Debts owed to Unsecured Creditors	0	0	0	0	No claim was received from the Unsecured Financial Creditors
7	(e)(i) any amount due to the Central and State Government in respect of the whole or any part of the period of two years preceding the Liquidation Commencement Date	12,48,511	6,83,550	6,83,550	54.75	Claim from Government Departments Amounting to Rs.6,83,550 fully admitted and settled. Claim from ESI Department amounting to Rs.5,64,961/- was rejected by the Liquidator and ESI Corporation accepted the decision of the Liquidator. Hence no distribution to ESI Corporation
8	(e)(ii) Debts owed to a secured Creditor for any amount unpaid following the enforcement of security interest	0	0	0		Not Applicable
9	(e) Any remaining debts and dues	97,66,709	97,66,709	11,17,456	11.44	Dues Representing claims made by Operational Creditors and admitted by the Liquidator. The claimant got only partial amount.
10	(f) Preference Shareholders	0	0	0	0	The Corporate Debtor has no Preference Shareholders.
11	(g) Equity Shareholders	0	0	0	0	The Corporate Debtor has a Paid-up capital of Rs.1,00,000 contributed by two promoters and no amount payable to them
	Total	1,38,19,214	1,32,54,253	46,05,000	33.33	

20. The liquidator has also submitted a chart giving the timeline taken to conclude the liquidation process which has already been stated above and need not be reiterated.

21. Perusal of the reports and the documents shows that the liquidation process was completed in accordance with the rules & regulations under IBBI. The progress reports were submitted to the Tribunal from time to time. The process was concluded within the time / extended time and there is no deviation from any of the proceedings as contemplated under IBBI rules & regulations. Till date, none of the stakeholders / the departments have raised any objection as to the liquidation process.

22. For the aforesaid reasons, and the fact that since the liquidation process has been completed in respect of the Corporate Debtor **Food Express Industrial Catering Services Private Limited**, we order for dissolution of the affairs of the Corporate Debtor **Food Express Industrial Catering Services Private Limited**.

23. The Registry is directed to send copy of the order to Insolvency and Bankruptcy Board of India & MCA.

24. IA/IBC/389/2023 in IBA/641/2019 is accordingly **allowed and stands disposed off**.



25. Since the liquidation process has been completed and Corporate Debtor has been dissolved, the IBA/641/2019 stands closed and filed to records.



SAMEER KAKAR
Member (Technical)

Harikrishnan



SANJIV JAIN
Member (Judicial)