

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

**IA No. 508/2021
In
CP (IB) No.396/Chd/HP/2018**

**Under Section 54 of the
Insolvency and Bankruptcy
Code, 2016**

In the matter of:

**JM Financial Asset Reconstruction
Company Limited.**

...Petitioner/Operational Creditor

Versus

Inka Foods Private limited

...Respondent/corporate debtor.

And

In the matter of IA No.508/2021

**Ashok Kumar Gupta
Liquidator
For Inka Foods Private Limited
LD-46, PITAMPURA
Delhi-110034**

...Applicant

Judgment delivered on: 07.02.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present:

For Applicant in IA No.508/2021: Mr. Viren Sharma, Advocate

PER: SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

JUDGMENT

IA No.508/2021

The instant Application under Section 54(1) of Insolvency & Bankruptcy Code, 2016, read with Regulation 45(3) of the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016, has been filed by the liquidator for dissolution of the corporate debtor, i.e. Inka Foods Private Limited. Further, the applicant seeks direction to close the Liquidation Account of the Corporate Debtor.

2. The main Company Petition bearing CP (IB) No.396/Chd/HP/2018, filed by the Financial Creditor, i.e. JM Financial Asset Reconstruction Company Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016. The same was admitted by this Adjudicating Authority vide order dated 05.04.2019. Vide the same order, Mr. Ashok Kumar Gupta, i.e. the applicant, was appointed as Interim Resolution Professional. In the first meeting of the CoC, it was resolved by 100% voting share to appoint the applicant being IRP as RP of the corporate debtor. Vide order dated 10.01.2020, this Adjudicating Authority has allowed the application filed by the Resolution Professional for liquidation under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.

3. It is submitted that the applicant had made a public announcement as per Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016, in two newspapers i.e. Financial Express (English) and Divya Himachal (Hindi), dated 07.03.2020. The only asset of the corporate debtor forming part of the liquidation estate under section 36 of the code was the sole land and damaged building situated at Ropar Road, Nalagarh, Himachal Pradesh.

4. It is submitted by the applicant that the first e-auction sale notice dated 06.03.2020 was published in the newspaper on 07.03.2020. Pursuant to the above notice, no bids were received, and accordingly, the first auction notice failed. The applicant convened the first & second meetings of the Stakeholder's Consultation Committee (SCC) on 22.05.2020 and 16.09.2020, wherein the applicant apprised the members regarding the steps taken by the applicant in the liquidation process in the matter of the corporate debtor. Further, the applicant convened the third meeting of SCC on 14.10.2020, wherein the members of SCC decided to reduce the reserve price by 10% and issue a fresh auction sale notice.

5. It is further submitted that the applicant issued second, third, fourth and fifth e-auction sale noticed dated 16.10.2020, 19.11.2020, 22.12.2020 & 12.02.2021 for sale of assets of corporate debtor which were published in the newspapers. However, no bids were received from participating in the e-auction process and accordingly, the above-said auction notices failed.

6. The applicant convened the sixth e-auction dated 07.04.2021 wherein joint bidders Mr Jatinder Singh and Others submitted the highest bid of Rs.5,80,00,000/- towards the land and buildings being the asset of the corporate debtor. The entire bid amount was deposited by the successful bidder in the liquidation account of the corporate debtor on 07.05.2021. Pursuant to this, the liquidator issued a sale certificate dated 10.05.2021. Thereafter, the applicant convened the Meeting of SCC on 03.06.2021, wherein the applicant apprised the members of SCC regarding the liquidation process procedure prescribed in the latest judgment dated 05.04.2021 passed by the Hon'ble NCLAT in the matter of **Technology Development Board vs. Mr. Anil Goel and Ors.**; Company Appeal

(AT) (Ins) No. 731 of 2021 for distribution of the proceeds released from the sale
IA No.508/2021
In
CP (IB) No.396/Chd/HP/2018
(Admitted matter)

of assets of the corporate debtor. Further, the applicant has filed a compliance affidavit vide diary No. 01200/4 dated 03.01.2023, wherein it is clarified that none of the suggestions of SCC was rejected by the applicant-liquidator

7. It is further submitted that an amount of Rs.21,196/- remained in the liquidation account towards contingency expenses in anticipation of an appeal filed by one of the secured creditors and other legal expenses. In view of the same, the applicant undertakes to close the said account within fifteen days of the order/or as per directions of this Adjudicating Authority. The applicant has prepared a final report prior to the dissolution application containing a liquidation statement of assets and its realisation and distribution of the amount in accordance with Section 53 of the Code. A copy of the final report is attached as Annexure-A 21 of the petition. A copy of the Auditor's Report from 11.01.2020 to 30.07.2021 is attached as Annexure A-20. A copy of Form-H is attached as Annexure A-22.

8. It is further submitted that since the Corporate Debtor has been liquidated successfully and the realized amount has been distributed to the stakeholders as per Section 53 of the Code read with Regulation 42 of the Liquidation Regulations, the liquidation proceedings are construed to be concluded, the instant application is being made for dissolution of the Corporate Debtor.

9. Heard, Mr Viren Sharma, authorised representative for the Liquidator. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

10. The present application is filed under Section 54 of the I&B Code. The relevant provisions of Section 54 of the IBC read as under:-

“Section 54 of the IBC

IA No.508/2021
In
CP (IB) No.396/Chd/HP/2018
(Admitted matter)

1. *Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the adjudicating authority for the dissolution of such corporate debtor*
2. *The adjudicating authority shall on application filed by the liquidator under Sub-Section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly*
3. *A copy of an order under Sub-Section(2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate data is registered.”*

11. The above facts and circumstances of the case have established that due process of Liquidation, as per extant provisions, was followed by the Liquidator to liquidate the assets of the Company, and the realized amounts were also distributed to the respective claimants. Therefore, the liquidation process is deemed to have been completed under Chapter III of Part II of the Code, and thus it would be just and proper for the Adjudicating Authority to dissolve the Company. No party is going to be affected by dissolving the company.

12. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54(2) of the Code, the Interim Application bearing IA No.508/2021 in CP (IB) No.396/Chd/HP/2018 is disposed of with the following directions:

- (i) M/s Inka Foods Private Limited, the Corporate Debtor, is hereby dissolved with immediate effect;
- (ii) The Registry is directed to forward a copy of this order to the Registrar of Companies, Punjab and Chandigarh within a period of two weeks from today;
- (iii) The Liquidator is permitted to close the Liquidation Bank Account after the payment of the pending amount, if any, held in the liquidation account within three weeks from the date of receipt of a copy of this order.

- (iv) The Liquidator is directed to open and maintain a private account depositing Rs.21,196/- remained in the liquidation account towards contingency expenses in anticipation of the appeal filed by one of the secured creditors and other legal expenses, if any, and to pursue the same.
- (v) The Liquidator is also directed to forward copies of this order to all other statutory authorities connected with the affairs of the Company.
- (vi) The Liquidator, Shri Ashok Kumar Gupta, is discharged from his duties and responsibilities as the liquidator of the corporate debtor company.

13. Accordingly, IA No.508/2021 stands allowed and disposed of.

Sd/-

(Subrata Kumar Dash)
Member (Technical)

February 07, 2023

PB/ASH

Sd/-

(Harnam Singh Thakur)
Member (Judicial)