IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA (IB) No. 1008/KB/2021
in
CP (IB) No. 1406/KB/2018

Under section 54 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:
Oriental Bank of Commerce

... Financial Creditor

Versus

Bala Techno Industries Limited

... Corporate Debtor

-And-

In the matter of:
Anil Anchalia,
Liquidator of Bala Techno Industries Limited

... Applicant

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (through video conferencing):

For the Applicant

1. Mr. Anil Anchalia, Liquidator

Order reserved on: 12.01.2022
Order pronounced on: 25.01.2022

ORDER

Per Harish Chander Suri, Member (Technical)

1. This court convened *via* video conferencing.

2. This is an application filed under section 54(2) of the Insolvency and Bankruptcy Code, 2016 *("Code")* read with regulation 45(3) of the Insolvency and Bankruptcy Board of India [Liquidation Process]

Regulations, 2016 ("*Liquidation Process Regulations"*) by the Liquidator of **Bala Techno Industries Limited (CIN: L17299WB1990PLC049886)** (*"Corporate "Debtor"*) praying for dissolution of the Corporate Debtor.

3. This Adjudicating Authority *vide* order dated 15.10.2019, admitted the Corporate Debtor under Corporate Insolvency Resolution Process ("*CIRP*") appointing Mr. Anil Anchalia as Interim Resolution Professional. Subsequently, his appointment was confirmed as Resolution Professional. Since the Resolution Professional did not receive any Resolution Plan, an order of liquidation was passed *vide* order dated 15.02.2021. Mr. Anil Anchalia, the applicant, was appointed as a Liquidator. A copy of the order is annexed with the application and marked as Annexure - 'A'[1].

4. Public announcement of commencement of liquidation was made in Form 'B' in ***"Business Standard"*** (English) and ***"Aajkal"*** (Bengali) on 19.02.2021 inviting proof of claims from the stakeholders of the Corporate Debtor in the specified forms and Form 'B' was also uploaded on the IBBI website.

5. The Liquidator had received six claims from the stakeholders- two Financial Creditors and four Operational Creditors. The total amount of claim admitted by the Liquidator was Rs.59,94,51,576/-.

6. A list of stakeholders was prepared and submitted before the Adjudicating Authority on 28.04.2021.

7. The Secured Financial Creditors *viz.* Punjab National Bank (earlier Oriental Bank of Commerce) and UCO Bank have relinquished their security interest.

[1] Pp. 17-24 of the I.A.

8. The Liquidator has opened a new bank account in the name of corporate debtor i.e., "*Bala Techno Industries Limited (in Liquidation)*" [Account number: - 000605035391] as per regulation 41 of the Liquidation Process Regulations, with ICICI Bank Ltd., R.N. Mukherjee Road Branch, Kolkata on 17.03.2021.

9. The Liquidator thereafter filed Preliminary Report as per regulation 13 of the Liquidation Process Regulations as well as Asset Memorandum on 28.04.2021 as per regulation 34(4) of the Liquidation Process Regulations.

10. The Liquidator published the sale notice for e-auction on 06.05.2021 for sale of the Corporate Debtor as a going concern under regulation 32(e) of the Liquidation Regulations with a Reserve Price of Rs.207.30 Lakh, Earnest Money Deposit ("*EMD*") of Rs.21 Lakh and Incremental Bid of Rs.2 Lakh. The Liquidator did not receive any Expression of Interest ("*EoI*"). Thereafter the Liquidator published second e-auction sale notice on 06.08.2021 but did not receive any EoI.

11. The Liquidator published the e-auction sale notice for the third time on 01.09.2021 for sale of assets collectively with a revised Reserve Price of Rs.168 Lakh, Earnest Money Deposit of R.16.80 Lakh and Incremental Bid of Rs.2 Lakh, the last date of submission of EMD was 13.09.2021 and the date of e-auction was 15.09.2021.

12. The Liquidator received an EoI along with an EMD of Rs.16.80 Lakh from one prospective buyer Acknit Industries Limited.

13. The e-auction was conducted on 15.09.2021 and Acknit Industries Limited who gave a bid of Rs.168 Lakh was declared the H1 bidder. The Liquidator issued a Letter of Intent ("*LoI"*) on 16.09.2021 to the H1 bidder.

14. The Liquidator received a pay order of Rs.151.20 lakh on 08.10.2021 from the successful bidder towards sale consideration of Rs.168 Lakh after adjustment of EMD of Rs.16.80 Lakh.

15. The liquidation proceeds were distributed on 09.11.2021 to the Stakeholders in accordance with section 53 of the Code. The entire amount of Rs.1,72,91,401/- (Rs.1,68,00,000/- realisation from sale of assets and Rs.4,91,401/- available bank balance) was distributed in accordance with section 53 of the code as follows:

    a. CIRP cost: Rs.43,16,842/-

    b. Liquidation Expenses: Rs.13,39,344/-

    c. Distribution to the Secured Financial Creditors: Rs.1,16,35,215/-

16. A Certificate of Sale and Possession handover letter were issued to the Successful Bidder on 03.11.2021.

17. It is submitted that the Liquidator filed for exclusion of 46 days from 16.05.2021 to 30.06.2021 of Liquidation Process Period due to the lockdown and Covid-19 pandemic, this Adjudicating Authority allowed exclusion of 46 days from the liquidation process period *vide* order dated 13.09.2021 in I.A. (IB) No. 716/KB/2021.

18. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator has filed four quarterly Progress Reports from time to time before the Adjudicating Authority, and the final report dated 22.11.2021 disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor has been annexed as **Annexure – 'K'** to the application. As per mandatory requirement under regulation 45(3) of the Liquidation Process Regulations, the Liquidator has prepared a compliance certificate under prescribed 'Form H' and the same is annexed as **Annexure – 'J'** to the application**.**

19. The affairs of the Corporate Debtor were completely liquidated after realising the assets and distributing the amount to the stakeholders after complying with the provision of section 53 of the Code in the order of priority as mandated under the Code. Details of realisation and distribution have been specifically mentioned in Form-H and Final Reports as **Annexure – 'J' and Annexure – 'K'** respectively. The Account of Liquidation in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached in the Final Report.

20. Upon hearing the Liquidator and on perusal of 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 statements as on 09.11.2021 reflects that there is no balance in the bank account.

21. In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.

22. 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.

23. The Liquidator shall stand discharged from his responsibilities, subject to procedural compliances.

24. **I.A. (IB) No. 1008/KB/2021 and CP (IB) No. 1406/KB/2018** shall stand disposed of in accordance with the above directions.

25. The Registry is directed to send e-mail copies of the order forthwith to all the parties for information and for taking necessary steps.

26. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

27. File be consigned to the records.

Harish Chander Suri	**Rohit Kapoor**
Member [Technical]	**Member [Judicial]**

25.01.2022.

GGRB[LRA]