

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

IA No. 1510 of 2022
IN
CP IB No. 1069 of 2017

Under Section 54 of Insolvency and
Bankruptcy Code, 2016 read with
Regulation 14 of Insolvency and
Bankruptcy Board of India (Liquidation
Process) Regulations, 2016

In the matter of
Pine Forest Products and Investments
Limited

.... Financial Creditor

vs.

Zenith Computers Limited

.... Corporate Debtor

IA No. 1510 of 2022

Mr. Chetan T. Shah

.... Applicant/Liquidator

Order delivered on 28.09.2022

Coram:

Shri Manoj Kumar Dubey

Hon'ble Member (Technical)

Shri Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearance:

Appearances (through video conferencing):

For the Applicant(s) :

Mr. Chetan T. Shah , Advocate

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. It is an application filed by the Liquidator seeking an Order under Section 54 read with read with Regulation 45(3) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 for granting “**Dissolution**” of Corporate Debtor.
2. The Adjudicating Authority vide its order dated 12.07.2017 on a Petition filed by the Operational Creditor under Section 7 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely “Zenith Computers Limited”, wherein Mr. Chetan T. Shah (the Applicant), was appointed as Interim Resolution Professional (IRP). Thereafter, in the 1st Committee of Creditors (CoC) meeting held on 01.11.2017, the Applicant was resolved to be appointed as Resolution Professional (RP).
3. On 08.05.2018, Liquidation process against the Corporate Debtor was approved by this Tribunal and the Applicant was appointed as the Liquidator of the Corporate Debtor. As a consequence, Public Announcement in Form-A was made on 25.05.2018 in four newspapers namely Navshakti (Marathi – Mumbai Edition), Free Press Journal (English – Mumbai Edition), Bhangarbhui-Goa (English –Edition) and Times of India-Goa (English –Edition).

4. As per the Commencement of the Liquidation, the applicant has taken custody of assets of the Corporate Debtor on 22.06.2018 and the notice of custody was affixed on the conspicuous part of the property where the assets of the Corporate Debtor were situated and the same was also intimated to all the stakeholders of the Corporate Debtor.
5. The applicant intimated the 'Indian Bank' to handover constructive possession of certain assets of the Corporate Debtor held by them under SARFAESI Act' 2002. After persuasion, Indian Bank agreed to relinquish the security interest and the applicant received constructive possession of the said fixed assets of the Corporate Debtor on 25.01.2019. Since Indian Bank took time in deciding to relinquish the security interest, effective steps for liquidation could be taken only after 25.01.2019.
6. The applicant appointed two valuers viz. RK Associates Valuer & Techno Engineering Consultant Pvt. Ltd. and Crest Capital Group Pvt. Ltd. to determine realizable value of the assets of the Corporate Debtor on 11.07.2018.
7. The date of opening of bank account was 11.06.2018 and the date of Closing of bank account was 30.04.2022.
8. On 23.05.2018 the applicant has intimated ROC about the commencement of Liquidation.

9. The applicant received Valuation Reports from the aforesaid valuers in September 2018, and as per the said Valuation Reports, liquidation value of the assets of the Corporate Debtor are as follows:

Sr. No.	Category of Assets	Average Liquidation Value (Rs.)
1	Land & Building:	
	a) Situated at Goa	8,21,15,856.00
	b) Situated at Navi Mumbai	5,15,30,328.00
	Total Land & Building	13,36,46,184.00
2	Plant & Machinery At Goa	1,99,410.00
3	Inventories: -	
	a) Situated at Goa	6,35,441.00
	b) Situated at Navi Mumbai	80,360.00
	Total Inventories	9,15,211.00
4	Advances/ Deposits	15,13,916.00
5	Statutory Deposits/Advances	0
6	Sundry Debtors	1,27,984.00
7	Cash & Bank	94,93,382.00
	Total	14,56,96,677.00

10. The applicant in consultation with the stakeholders has, from time to time tried to sell the assets of the Corporate Debtor through e-auction.
11. The applicant has consulted with the stakeholders for fixing reserve price of the assets to be sold and other issues pertaining to liquidation.
12. On 19.07.2018 the Preliminary Report along with the Asset Memorandum report based upon the Liquidation Estate was also submitted by the Applicant.
13. Vide Deed of Assignment dated 02.12.2021, the liquidator has assigned all the rights/interest of the Corporate Debtor in Suit No. 3846/1994 in the matter of Zenith Computers Ltd v/s New India Assurance Co. Ltd and others [wherein suit claim amount is Rs.2,17,92,881.76 plus interest from the defendants therein , pending before the Hon'ble High Court of Bombay] in favour of consortium of Secured Creditors comprising of a) Indian Bank Ltd; b) IDBI Bank Ltd; and c) Phoenix ARC Pvt ltd as per the terms and conditions mentioned. The said Deed of Assignment is on "As is where is basis", "As is what is basis" "whichever there is basis" and "No recourse basis".

14. On 31.05.2022, the Learned Liquidator filed final Progress Report of the Corporate Debtor to the Adjudicating Authority along with Compliance Certificate in Form – H as per Regulation 45 of the Liquidation Process Regulation.
15. As per the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, vide Regulation No.14, it is prescribed as under:-
- “14. Any time after the preparation of Preliminary Report, if it appears to the liquidator that –*
- (a) The realizable properties of the corporate debtor are insufficient to cover the cost of liquidation process; and*
 - (b) The affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution.”*
16. In the light of the above it is noticed that the Corporate Debtor does not have assets to be liquidated hence an Application is moved for the “Dissolution of the Corporate Debtor”. This Section is to be read along with Regulation 14 of IBBI (Liquidation Process) Regulations 2016 which says that any time after the preparation of a Preliminary Report if it appears to the Liquidator that the realizable properties of the Corporate Debtor are insufficient to cover the cost of Liquidation process, and the affairs of the Debtor do not require further

investigation and may apply to NCLT for early dissolution of the Corporate Debtor.

17. For the purpose of pronouncement of Dissolution of a Corporate Debtor Section 54 of The Insolvency and Bankruptcy Code, 2016 reads as under :-

“54.(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 subsection (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 debtor is registered.

18. In this connection it is also worth to refer to Section 59, Sub-Section 7 of IBC. Although this Section is in respect of Voluntary Liquidation of a Corporate Person, however, according to this Section where the affairs of the Corporate Person have been completely wound up, and its assets completely liquidated, the Liquidator shall make an Application to Adjudicating Authority for

the Dissolution of such Corporate person. This Sub-Section is simply referred for the reason that in all such situation an Application is to be moved for seeking an Order of “Dissolution of a Corporate Person”.

19. As a consequence, through this Order it is hereby declared that not only it is just and equitable but because of the fact that no asset is available for the purpose of ‘Liquidation’ as reported by Learned Liquidator, this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016. Ordered accordingly. The Corporate Debtor stands ‘**Dissolved**’ from the date of this Order.
20. Since the Debtor Company stands Dissolved vide this order and no proceedings are now pending, therefore the Registry is directed that the case file be consigned to records.
21. Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies having jurisdiction, for further necessary action as prescribed under Law.
22. Accordingly, IA No. 1510 of 2022 is hereby allowed and disposed of and CP IB No. 1069 of 2017 is hereby closed.

Sd/-

Manoj Kumar Dubey
Member (Technical)
28.09.2022

Sd/-

Kishore Vemulapalli
Member (Judicial)