



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

**IA(IBC)/1175/2021 in CP/608/IB/2017**

*(filed under Section 53 of Insolvency Bankruptcy Code, 2016 and Regulation 4(2) of IBBI  
(Liquidation Process) Regulation r/w NCLT Rules, 2016)*

*In the matter of Rathna Stores Private Limited*

**CA.V. VENKATA SIVAKUMAR,**  
Liquidator of  
Rathna Stores Private Limited,  
NO.10/11, Dr. Subbarayan Nagar Main Road,  
Kodambakkam, Chennai – 600 024.

*Order Pronounced on 12<sup>th</sup> September 2023*

**CORAM**

**SANJIV JAIN, MEMBER (JUDICIAL)  
SAMEER KAKAR, MEMBER (TECHNICAL)**

Present: -

*For Applicant : Mr.Venkata Siva Kumar, Liquidator  
For Respondent : Mr.Surya Teja Nalla, Advocate*

**ORDER**

***(Hearing Conducted Through VC)***

This Application under Section 53 of Insolvency Bankruptcy Code, 2016 ('the Code') and Regulation 4(2) of IBBI (Liquidation Process) Regulation, 2016 ('Liquidation Regulation') r/w NCLT Rules, 2016 has been filed by **CA.V. VENKATA SIVAKUMAR**, Liquidator of Rathna Stores Private Limited ('Corporate Debtor') seeking to exclude the period of seven months lost because of reasons beyond the control of Liquidator and to allow the additional remuneration as per invoice



enclosed in accordance with the Regulation 4(2) of Liquidation Regulation.

2. The Liquidation in respect of the Corporate Debtor was ordered on 14.08.2018 and the Applicant herein was appointed as Liquidator of the Corporate Debtor vide order dated 11.09.2018. It is the plea of the Applicant / Liquidator that he had completed the process of realizing the assets of the Corporate Debtor and distributing the same in accordance with Section 53 of the Code within a period of 11 months.

3. It is stated that the Applicant lost 7 months in handling following extraordinary circumstances in completing the Liquidation Process of the Corporate Debtor.

- i) Contested the continued litigations to take possession as the assets of the Corporate Debtor.
- ii) Processed defective title deeds of the land mortgaged and the 7-floor building measuring 33000 sq. ft.
- iii) Handled property which is under attachment of Income Tax Authorities etc.,

It is stated the above reasons were beyond the control of the Applicant.

4. It is the plea of the Applicant / Liquidator that excluding the above period of 7 months, the liquidator is eligible for the additional remuneration as per Regulation 4(2) of the Liquidation Regulation.

A handwritten signature in green ink, appearing to be 'SVK', located at the bottom right of the page.



5. In the counter filed by one of the stakeholders of the Corporate Debtor viz., UCO bank, it is stated that the Applicant has received his remuneration in accordance with Regulation 4 of Liquidation Regulation.

6. It is stated that the efforts taken by the Liquidator were the duties of the Liquidator as per Section 35 of the Code. There is nothing out of the ordinary in the steps taken by the Liquidator in realizing the assets in the Liquidation estate.

7. In addition to that, it is stated that it was only after the liquidator settled his fees and costs, he distributed the balance of the realized amount to the Bank. It is stated the present application is an afterthought and is liable to be dismissed.

8. We have heard the Liquidator in person and the Counsel for the UCO Bank.

9. On a perusal of records, it is seen that the liquidation of the Corporate Debtor was ordered on 14.08.2018. The Applicant herein was appointed as the Liquidator on 11.09.2018.

10. It is to be noted here that the Liquidator had originally filed IA/186/2021 before this Tribunal seeking extension of liquidation period and this Tribunal vide its order dated 05.05.2021 extended the Liquidation period of the Corporate Debtor.

A handwritten signature in blue ink, located at the bottom right of the page, above the horizontal line.



11. Thereafter, the Liquidator filed another IA/875/2021 before this Tribunal seeking further extension of Liquidation period. This Tribunal vide its order dated 23.09.2021 extended the Liquidation period in respect of the Corporate Debtor for a period of 6 months from 06.05.2021. Thus, the Liquidation period in respect of the Corporate Debtor was extended till 05.11.2021.

12. Thus, it could be seen that in the present case, two times extension was granted and the Liquidator completed the distribution of assets within the said period. However, he seeks to exclude a period of 7 months on the ground that he:

- i) Contested the continued litigations to take possession as the assets of the Corporate Debtor.
- ii) Processed defective title deeds of the land mortgaged and the 7-floor building measuring 33000 sq. ft.
- iii) Handled property which is under attachment of Income Tax Authorities etc.,

13. It is seen that by virtue of two orders passed by this Tribunal, the Liquidation period in respect of the Corporate Debtor was extended from 17.02.2020 till 05.11.2021. Already, the hurdles faced by the Liquidator in conducting the Liquidator process were considered and accordingly the Liquidation period was extended from time to time.

14. This Application has been filed on 13.11.2021, seeking thereof to exclude a period of 7 months, which period is already subsumed in the



extension of time period granted by this Tribunal in IA(IBC)/186/2021 and in IA(IBC)/875(CHE)/2021.

15. Section 35 of the Code stipulates the powers and duties of the Liquidator as under.

**35. Powers and duties of liquidator. -**

*(1) Subject to the directions of the Adjudicating Authority, the liquidator shall have the following powers and duties, namely: -*

*(a) to verify claims of all the creditors;*

*(b) to take into his custody or control all the assets, property, effects and actionable claims of the corporate debtor;*

*(c) to evaluate the assets and property of the corporate debtor in the manner as may be specified by the Board and prepare a report;*

*(d) to take such measures to protect and preserve the assets and properties of the corporate debtor as he considers necessary;*

*(e) to carry on the business of the corporate debtor for its beneficial liquidation as he considers necessary;*

*(f) subject to section 52, to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified:*

*[Provided that the liquidator shall not sell the immovable and movable property or actionable claims of the corporate debtor in liquidation to any person who is not eligible to be a resolution applicant.]*

*(g) to draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the corporate debtor, with the same effect with*



*respect to the liability as if such instruments were drawn, accepted, made or endorsed by or on behalf of the corporate debtor in the ordinary course of its business;*

*(h) to take out, in his official name, letter of administration to any deceased contributory and to do in his official name any other act necessary for obtaining payment of any money due and payable from a contributory or his estate which cannot be ordinarily done in the name of the corporate debtor, and in all such cases, the money due and payable shall, for the purpose of enabling the liquidator to take out the letter of administration or recover the money, be deemed to be due to the liquidator himself;*

*(i) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities;*

*(j) to invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Code;*  
*(k) to institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of on behalf of the corporate debtor;*

*(l) to investigate the financial affairs of the corporate debtor to determine undervalued or preferential transactions;*

*(m) to take all such actions, steps, or to sign, execute and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as liquidator;*

*(n) to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor and to report the progress of the liquidation process in a manner as may be specified by the Board; and*

A handwritten signature in blue ink, consisting of a stylized 'V' shape with a long diagonal stroke extending upwards and to the right.



*(o) to perform such other functions as may be specified by the Board.*

*(2) The liquidator shall have the power to consult any of the stakeholders entitled to a distribution of proceeds under section 53:*

*Provided that any such consultation shall not be binding on the liquidator:*

*Provided further that the records of any such consultation shall be made available to all other stakeholders not so consulted, in a manner specified by the Board.*

16. Viewing the instant case in light of the above provisions, we find that except the time spent in the litigation, nothing extraordinary in the liquidation process was carried out by the Liquidator. It is the duty of the Liquidator to take possession of the assets, conduct the case before the appropriate forum in order to defend the Corporate Debtor. For performing the duty under Section 35 of IBC, 2016, the Liquidation period cannot be excluded.

17. Further, it is also required to be noted that the Application has been filed, without making any averment as to how many extensions were granted, when the distribution under Section 53 was completed and the exact period during which the litigation was pending.

18. The fact that two extensions were granted by this Tribunal has never been spelt out in the averments in the present Application. Without placing the entire facts of the case, this Application has been filed.

A handwritten signature in blue ink, located at the bottom right of the page.



19. It is seen that the entire amount realized in the liquidation of the Corporate Debtor has been completely distributed to the respective stakeholders. The Applicant/Liquidator has also not denied that he has received his fee as per Regulation 4 of the Liquidation Regulation and the said fee has also been paid in priority over the stakeholders.

20. Thus, in view of the discussions made above and considering the object of IBC, 2016, we find that this Application filed by the Liquidator is bereft of facts and devoid of merits and is liable to be dismissed.

21. Accordingly, this application IA(IBC)/1175(CHE)/2021 stands **dismissed** with no orders as to cost.

— sd —

**SAMEER KAKAR**  
MEMBER (TECHNICAL)

— sd —

**SANJIV JAIN**  
MEMBER (JUDICIAL)

*Order pronounced under Rule 151 of NCLT Rules 2016, by Hon'ble Judicial Member Sanjiv Jain on behalf of the Bench comprising of Sanjiv Jain, Member (Judicial) and Sameer Kakar, Member (Technical).*

*M. Nalluheraiah*  
(COURT OFFICER)