

**THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI COURT III**

IA-4939/2022

In

Company Petition No. IB-2976(ND)/2019

Under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter of:

Nuvision (Delhi) Pvt. Ltd

...Applicant/Petitioner

Versus

In the matter of:

FLPL Logistics Pvt. Ltd

...Corporate Debtor

And

In the Matter of: -

Kotak Mahindra Prime Ltd.

.... Applicant

Versus

Rishabh Chand Lodha

....Respondent

Judgment delivered on: 16.02.2023

Coram:

**SHRI BACHU VENKAT BALARAM DAS
Hon'ble MEMBER (JUDICIAL)**

**SHRI RAHUL PRASAD BHATNAGAR
HON'BLE MEMBER (TECHNICAL)**

For the Applicant : Mr. Rohit Bohra, Advocate.

For the Erstwhile Liquidator : Mr. Abhishek Naik, Advocate.

ORDER

Per: BACHU VENKAT BALARAM DAS, MEMBER (J)

1. The present application has been filed by Kotak Mahindra Prime Limited seeking a direction to the Liquidator/Respondent to remit an amount of Rs. 39,35,000/- which has been realized from the sale of the security interest of the Applicant i.e., Audi A8 bearing Registration No. JIR 26 DE 6789 after deduction of CIRP costs and estimated liquidation costs as is apportioned to the Applicant based on the Financial Claim admitted in terms of Regulation 2A of Liquidation Process Regulations, 2016.

2. It is submitted that the Applicant Kotak Mahindra Prime Limited is an assignee of M/s. Volkswagen Finance Private Limited vide assignment agreement dated 15.09.2021 and by virtue of the assignment has a claim as a secured Financial Creditor in the Corporate Debtor.

3. It is also submitted that Applicant has a security interest over the Audi A8 bearing Registration No. JIR 26DE 6789 which stands relinquished to the Liquidator/Respondent by order dated 21.12.2021 passed by this Tribunal. The Applicant has submitted that pursuant to the order dated 21.10.2021 passed by this Tribunal, the security interest i.e., Audi A8 vehicle bearing Registration No. JIR 26DE 6789 was sold by the Liquidator/Respondent for a sum of Rs. 39,35,000/-. However, the Liquidator/Respondent has remitted a sum of Rs. 8954/- only by way of a demand draft in full and final discharge of the claim of the Applicant.

4. It is further submitted that the Applicant objected to the payment of Rs. 8954/- out of the total realized amount of Rs. 39,35,000/- in an oral discussion held with the Liquidator on 13.07.2022 and also

brought on record the same by sending an email to the Liquidator/Respondent on 13.07.2022. However, no reply was received from the Liquidator to the said email.

5. We have heard the submissions of Mr. Rohit Bohra, Learned Counsel appearing for the Applicant and Mr. Abhishek Naik, Learned Counsel appearing for the Erstwhile Liquidator.

6. Mr. Abhishek Naik submitted that the Liquidator filed an application vide IA-3278/2021 before this Tribunal seeking directions against M/s. Volkswagen Finance Private Limited (Respondent) in the said application for relinquishment of security interest and making the assets part of the Liquidation Estate due to non-compliance of Regulation 21A(2) of IBBI (Liquidation Process) Regulations, 2016. This Tribunal in the said IA-3278/2021, after hearing the parties, passed a detailed order on 21.12.2021. The operative part of the order is reproduced below: -

“From the reading of the provisions contained in Regulation 21A(2) of Liquidation Process Regulations, it is very clear that the secured creditor is required to realize the security interest within stipulated time as prescribed in the Regulation and in case, the secured creditor fails to comply with the sub-regulation (2) then as per sub-regulation (3) of 21A of Liquidation Process Regulation the asset, which is subject to security interest, shall become the part of the Liquidation Estate. In the present case, the Respondent has failed to comply with the sub-regulation (2), therefore, as per sub-regulation (3) of Regulation 21A, the asset (In the present case Audi Q8 bearing Registration No. JIR 26DE 6789) shall become the part of the Liquidation Estate. Hence, the Respondent is directed to immediately handover the possession of the aforesaid asset to the Liquidator.”

7. Learned Counsel also invited our attention to an order dated 11.11.2022 passed by this Tribunal in IA-3777/2022, wherein, the Tribunal has allowed the application filed by the Liquidator seeking dissolution of the Company i.e., FLPL Logistics Private Limited, the Corporate Debtor and directed that the said Corporate Debtor shall stand dissolved in terms of Section 54 of IBC, 2013. Further, Mr. Rishabh Chand Lodha was discharged as the Liquidator from his duties of the Corporate Debtor. The Learned Counsel, therefore submitted that since, the Corporate Debtor-Company has been dissolved and the Liquidator has been discharged from his duties, the present application is not maintainable and cannot be entertained. He also submitted that, in the order dated 21.12.2021, the Tribunal has directed that the asset in question i.e. Audi Q8 bearing Registration No. JIR 26DE 6789 shall become the part of the Liquidation Estate and the Respondent in the said application i.e., M/s. Volkswagen Finance Private Limited was directed to handover the possession of the asset to the Liquidator. Consequent thereto, the Liquidator has sold the asset and also distributed the amount to all the stakeholders realized by him. We also note that in compliance of order of this Tribunal dated 21.12.2021, the Liquidator has proceeded in accordance with law.

8. Having considered the submissions made by the Learned Counsel for the parties and perusing the records, we are of the considered view that the present application is not maintainable and cannot be entertained, which is, therefore, **dismissed**.

-SD-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

-SD-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

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