



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

19. I.A. 2964/2021
IN
C.P.(IB)-409(MB)/2018

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **20.09.2022**

NAME OF THE PARTIES: Mehta Intertrade Steel Pvt.Ltd.

V/s

Suchetan Exports Pvt.Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

I.A. 2964/2021

Mr. Bhupesh Dhumatkarh, counsel appearing for the Liquidator is present through virtual hearing.

The above I.A. is filed for dissolution of the corporate debtor.

Heard the counsel appearing for the Applicant, the above Application is allowed. Detail order would follow:

Sd/-
ANURADHA SANJAY BHATIA
Member (Technical)
//rks//

Sd/-
H. V. SUBBA RAO
Member (Judicial)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

I.A. No. 2964 of 2021

In

C.P. No. 409 of 2018

Under Section 54(1) of Insolvency & Bankruptcy
Code, 2016

In the matter of

Mehta Intertrade Steels Pvt. Ltd.

....Operational Creditor

V/s.

Suchetan Exports Pvt. Ltd.

.... Corporate Debtor

I. A. No. 2964 of 2021

Vimal Kumar Agarwal

....Applicant/liquidator

Order delivered on 20.09.2022

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Bhatia, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Raman Misra, Advocate (PRM Legal),
Vimal Kumar Agrawal, RP



ORDER

- 1.** It is an application filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 by Mr. Vimal Kumar Agarwal who is the Resolution Professional seeking the following reliefs;

 - a) That this Hon'ble Tribunal be pleased to order the dissolution of Suchetan Exports Pvt. Ltd., the Corporate Debtor above named under Section 54(1) (2) & (3) of the code;*
 - b) That this Hon'ble Tribunal be pleased to pass any such order/direction that may be just and necessary in the aid for prayer (a) as mentioned above.*
 - c) That this Hon'ble Tribunal be pleased to pass any order / direction that may be just and necessary in the facts of the present case.*

- 2.** The Adjudicating Authority vide its order dated 09.10.2018 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Suchetan Exports Pvt. Ltd., wherein Vimal Kumar Agarwal, was appointed as Interim Resolution Professional (IRP). Thereafter, the IRP was appointed as Resolution Professional (RP) and the same was approved by this Bench.

- 3.** The Applicant states that an Order under Section 33(2) was passed on 05.12.2019 whereunder the Debtor Company was allowed to be 'Liquidated' under the provisions of The Insolvency and Bankruptcy Code, 2016 and the Applicant was appointed as the Liquidator.



- 4.** The Applicant submits that pursuant to the liquidation order, made public announcement in Form B informing the public at large about the initiation of the liquidation process against the corporate debtor, vide a public announcement dated 14.12.2019, inviting claims from the creditors of the Company
- 5.** Pursuant to the public announcement, the Applicant received the claims from the three creditors of the Corporate Debtor. The Applicant submits that applicant constituted the stakeholder Consultation Committee as on 10.02.2020 under Regulation 31A of IBBI (Liquidation process) Regulations, 2016.
- 6.** The Applicant states that in Compliance with Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 (hereinafter called Regulations), a public announcement was made on 14.12.2019 and published in the three nationwide circulated newspapers i.e. in Free Press in English along with Navshakti in Marathi.
- 7.** On 26.04.2019 in the COC meeting held, the Liquidator informed the Stakeholder Consultation Committee (“SCC” Meetings”) that, this company do not have any assets to sell, and no business operations is carried out as going concern. Therefore, Committee unanimously decided to file the present Application for dissolution of this company M/s Suchetan Exports Private Limited.
- 8.** The estimated value of assets and liabilities based on reliable records have been stated to be Rs. 33,52,45,714/- as per the Audited Financial Statements for the period ending 31.03.2020. The RP had appointed two registered valuers for the valuation of Securities &



Financial Assets i.e. Anmol Sekhri Consultants Pvt Ltd. And Mr. Prashant Jain, wherein average liquidation value of the Corporate Debtor has been computed on basis of these valuations conducted during CIRP period amounting Rs. 1,23,219/-.

- 9.** The Applicant states that the Prime assets of the Corporate Debtor are only Cash and Bank Balance and as per Regulation 32(f) of the IBBI (Liquidation Process) Regulations, 2016 the liquidator is directed to liquidate /sell the Corporate Debtor's assets as "ongoing concern". As per the Regulation 32A (2) IBBI (Liquidation) Regulations, 2016 ("Regulation 32A"), The liquidator shall sell assets and liabilities in such groups, as has been identified by the Committee of Creditors ("COC"). However, in the present case, Corporate Debtor do not possess any assets to sell, Apart from the above, there are financial assets of the Corporate Debtor consisting of investments, receivables and advances forming the part of Liquidation Estate which the Liquidator will be able to realize is only Bank balance is Rs. 71,925/- and cash 46,442/-, Total amounting to Rs. 1,18,367/- and whereas the estimated liquidation costs of the corporate Debtor are 1,19,954/-.
- 10.** The Applicant states that the bank account No. 30674739177 of Suchetan Exports Pvt. Ltd. in State Bank of India, B N Agrawal Commercial Complex Parle Square Building, 3rd Floor, Mangubai Road, Vile Parle(E), Mumbai branch closed on 16.06.2022.
- 11.** The Liquidator after receiving the claim from the creditors had made the assessment and submitted Preliminary Report along with Assets memorandum to the Adjudicating authority on 25.02.2020. The Learned Liquidator filed final Progress Report on 21.03.2021 of the



Corporate Debtor under Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- 12.** That the applicant states that the final distribution of amount was lying in the liquidation account was distributed according to the Section 53 of the Insolvency and Bankruptcy Code.
- 13.** On careful perusal of the Application and the Progress Report on record it is noticed that neither there are Assets left with the Corporate Debtor nor any trade receivables are available. According to Learned Liquidator the Debtor Company has no Asset which can be liquidated as is also evident from the Report of the Liquidator.
- 14.** 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.”
- 15.** 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”. That the liquidator while preparing the Final progress report came to the conclusion that there



being no assets realizable or saleable, it will only increase the cost of liquidation, can opt for “Dissolution”.

- 16.** 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”.

- 17.** 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, stood ‘Dissolved’ from the date of this Order.



- 18.** Since the Debtor Company stood Dissolved vide this order and no proceedings are now pending; therefore, the Registry is directed that the case file be consigned to records.
- 19.** 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.
- 20.** Accordingly, IA No. 2964 of 2021 is hereby allowed and disposed of and CP No. 409 of 2018 is hereby closed.

Sd/
ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)