

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II

IA/779/2022

In
CP(IB)/2326(MB)/2018

*Application filed under section 54 r/w Section 60(5)
of Insolvency and Bankruptcy Code, 2016 and Rule 11
of National Company Law Tribunal Rules, 2016.*

Laxmikant Yeshwant Desai, Liquidator

Spice Infra Trading Private Limited

...Applicant

In the matter of

Evershine Advisory Services Private Limited

...Operational Creditor

V/s

Spice Infra Trading Private Limited

...Corporate Debtor

Order Pronounced on :- 04.08.2023

CORAM:

SHRI SHYAM BABU GAUTAM

HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER

HON'BLE MEMBER (J)

Appearances (through video conferencing)

For the Applicant/Liquidator : Adv. Aniruth Purusothaman

ORDER

Per- Kuldip Kumar Kareer, Member Judicial

1. It is an application filed under Section 54 of the Insolvency & Bankruptcy Code, 2016 (“**the Code**”) for the dissolution of the Corporate Debtor i.e. Spice Infra Trading Private Limited as the assets of the Corporate Debtor were sold under e-auction and the entire sale consideration were received from the successful bidders directly into the liquidation bank account and the same was distributed towards balance CIRP Cost, liquidation cost and to stakeholders in accordance with the provision of Section 53 of the Code.
2. On perusal of this application, it is seen that this Tribunal vide order dated 12.09.2018 initiated the Corporate Insolvency Resolution Process against the Corporate Debtor and appointed Ms. Dipti Mehta as Interim Resolution Professional. The IRP made Public Announcement as per Section 12 in Form A on 06.10.2018 and constituted the CoC in its first meeting on 02.11.2018. This Bench appointed Mr. Ankur Kumar as RP after looking into approval of the CoC vide order dated 16.01.2019. Further, Form G inviting Expression of Interest (EoI) from prospective Resolution Applicants was published by the acting RP in Free Press Journal (English) and in Navshakti (in Marathi) on 18.12.2018. An EoI was received from one, Mr. Amrit Agarwal but he failed to submit the “Confidential Undertaking” required as per eligibility criteria, hence the Information memorandum was not provided to him. In

such circumstances, the CoC approved the initiation of the liquidation proceedings under section 33 of Insolvency and Bankruptcy (Liquidation process) Code, 2016 against the Corporate Debtor and proposed the name of Mr. Ankur Kumar for Liquidator. Further, this Tribunal vide order dated 31.07.2019 ordered the Liquidation of the Corporate Debtor and accordingly appointed Mr. Ankur Kumar as the Liquidator to carry out the process as prescribed under Chapter III of the Code, 2016 for the Liquidation of the estate of the Corporate Debtor.

3. The Liquidator made the Public Announcement intimating initiation of the Liquidation of the Corporate Debtor and inviting claims from all the stakeholders. The Liquidator received as many as seven claims in all from the creditors of the Corporate Debtor. The Liquidator, further received a claim of Rs. 7,77,56,896/- from the Income Tax Department, Mumbai. The Liquidator, opened a new bank account on 05.03.2022 with ICICI Bank in the name of ***“Spice Infra Trading Private Limited-in liquidation”*** bearing account no. 219605000250, in accordance with Regulation 41 of IBBI(Liquidation Process) Regulation, 2016. Mr. Ankur Kumar, Liquidator had filed seven progress reports during his tenure. In July, 2021 one of the major stakeholders, M/s. European Projects & Aviation Limited proposed that the applicant, Mr. Laxmikant Yeshwant Desai be appointed as the Liquidator in place of Mr. Ankur Kumar. Accordingly, Mr. Laxmikant Yeshwant Desai was appointed as the Liquidator of the Corporate Debtor by this

Tribunal vide order dated 01.10.2021. The Applicant filed Form INC-28 with RoC, Mumbai informing about the commencement of liquidation process in respect of the Corporate Debtor and the appointment of applicant as liquidator. Further, the Applicant appointed two registered valuers, namely Mr. Rahul Bhatnagar and Mr. Hiten Prajapati to conduct valuation of SF&A assets of the Corporate Debtor.

In the 3rd meeting of the SCC held on 27.12.2021, the e-auction process was consented to by the stakeholders. The Applicant accordingly, made a public announcement on 01.01.2022 in the Free Press Journal (Maharashtra Edition) and in Navshakti (in Marathi-Mumbai Edition) with regard to conducting e-auction which was fixed for 17.01.2022. the assets covered under e-auction were divided into three different blocks with each block having a distinct time slot for e-auction. The entire sale consideration was received from the successful bidders directly into the liquidation bank account of the Corporate Debtor against which the Agreements for sale were subsequently executed. Further, in the 4th meeting held on 16.02.2022, the SCC approved the dissolution with 100% of members.

4. The Applicant distributed funds of Rs. 69,70,199.22/- as consented to in the 4th meeting of the SCC of the Corporate Debtor by payment towards balance CIRP costs and liquidation costs and to stakeholders in accordance with the provision of Section 53 of the IBC, 2016. Further, the Applicant/Liquidator informed the

stakeholders that he had closed the existing Liquidation Bank account maintained with ICICI Bank. The Applicant filed the Asset Sale Report in respect of sale of assets of the corporate Debtor through e-auction together with 10th Progress report of the Corporate Debtor.

5. Having perused the application and the final report prior to dissolution and averments made therein, we are of the considered view that the Corporate Debtor has been completely liquidated and thus, it is fit case for dissolution. Therefore, in exercise of the powers conferred under Section 54(2) of the Insolvency and Bankruptcy Code, 2016 Code, we hereby order the dissolution of the Corporate Debtor from this date i.e. **04.08.2023**. As per Section 54(3) of the Insolvency and Bankruptcy Code, 2016, the Liquidator is directed to send a copy of this order of dissolution of the Corporate Debtor Company to the RoC-Mumbai within seven days hereof. The Liquidator shall stand discharged in terms of the above orders.

6. Accordingly, this **IA/779/2022** is hereby **allowed** and **CP(IB)/2326(MB)/2018** is **closed**.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)