

**FREE OF COST COPY**

Page 1 of 6

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH**  
**(Exercising powers of Adjudicating Authority under**  
**the Insolvency and Bankruptcy Code, 2016)**

**I.A.No.365/2021**  
U/s.54 of the I&B Code, 2016 &  
**C.P. (IB) No.159/BB/2020**  
U/s.10 of IBC, 2016  
R/w Rule 7 of I&B (AAA) Rules, 2016

**In the matter of:**

**Mr. M.V Sudarshan,**  
*(Liquidator of M/s. Blue Whale Machinery Technologies Private Limited)*  
 No.984/13, 8<sup>th</sup> Main, Girinagar II Phase,  
 Bangalore – 560 085

... Applicant

**Order delivered on: 7<sup>th</sup> February, 2023**

**Coram:** 1. Hon'ble Justice (Retd.) T. Krishnavalli, Member (Judicial)  
 2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

**Present:**

For the Liquidator : Mr. Hemanth R Rao with  
 Mr. M.V. Sudarshan, Liquidator

**ORDER**

**Per: T. Krishnavalli, Member (Judicial)**

1. I.A.No.365/2021 in C.P.(IB) No.159/BB/2020 is filed by Mr. V Sudarshan, Liquidator of M/s. Blue Whale Machinery Technologies Private Limited (Applicant/Liquidator), U/s.54 of the I&B Code, 2016 by seeking to dissolve the Corporate Debtor M/s. Blue Whale Machinery Technologies Private Limited with immediate effect, and to direct the UCO Bank, Malleshwaram Branch, Bangalore 560002, one of the financial creditors who has not relinquish its rights over secured assets to pay its share of expenses of liquidation Rs.3,92,019/- (Rs.5,41,938/- less already paid Rs.1,49,919/-) and Kotak



Bank, Malleshwaram Branch, Bangalore-2, to pay Rs.51,613/- and Adithya Birla Finance Limited to pay Rs.77,420/- towards their share of expenses of liquidation of CD as mandated in Regulation 2A of the IBBI (Liquidation Process) Regulation, 2016. And to close all the accounts of the corporate debtor and to permit the RP to complete further intimation of dissolution order to various authorities.

2. Brief facts of the instant Application, which are relevant to the issue in question, are as follows:

(1) Initially, the main Company Petition bearing C.P.(IB)No.159/BB/2020 was filed by M/s. Blue Whale Machinery Technologies Private Limited (Petitioner), U/s.10 of the IBC, 2016, by inter alia seeking to initiate CIRP and the same was admitted by the Adjudicating Authority, vide its order dated 10.07.2020, by appointing Mr. Srinivas Thatikonda as IRP, imposing moratorium etc. Further, the Interim Resolution Professional filed I.A.No.317 of 2020 for Liquidation of Corporate Debtor U/s. 33(2) of the IBC, 2016 Read with Rule 11 of NCLT Rules, 2016 and to appoint the Applicant as Liquidator and the same was disposed of by this Adjudicating Authority vide its order dated 16.09.2020. Pursuant to the said Liquidation Order, the Liquidator made Public Announcement in Form-B dated 09.12.2020, one in Financial Express (English Newspaper) another in local language Hosadigantha (Kannada Newspaper) and on the official website of IBBI on 09.12.2020.

(2) It is stated that the Liquidator has received total claim of Rs.13,79,66,983/- and the total claim amount of Rs. 13,79,66,983/- was admitted by the Liquidator. Further, the Liquidator appointed two Registered Valuers on 12.12.2020 for valuing the assets of the Company, to determine the realizable value of the assets or business of the Corporate Debtor. Valuation of assets is as follows:

Sl. No.	Class of Assets	Fair Value	(Rs. In Lacs)
			Liquidation Value
1	SFA	11.90	2.37
2	Inventory – P & M	5.51	3.81
	Average Value	17.41	6.18



- (3) Further, based on the claims received under Liquidation process and CIRP process, the Liquidator constituted a committee of consultation on 05.02.2021 and communicated the same to the members through mail dated 17.02.2021. The amount available was not even enough to meet the CIRP/liquidation cost and hence there is settlement list of stakeholders during the liquidation period from 01.12.2020 to 13.11.2021. As the company did not have any property or physical assets in the liquidation estate to be sold and realized at the end of liquidation. As per the Regulations 32 of the Liquidation regulation, the Liquidator has made all effort to sell the assets in the available alternatives.
- (4) Pursuant to Regulation 13 of the IBBI (IRP for Corporate Persons) Regulations, 2016 the Preliminary Report was filed on 11.04.2021. Besides that a total of 4 Quarterly Progress Reports have been filed in this liquidation process.
- (5) It is further stated that the Secured Financial Creditor, did not relinquish its security rights over the assets mortgaged in its favor. With reference to the provisions stated above the liquidator has verified the claims made in Form D as against documentary evidence submitted and other calculations of the UCO Bank and liquidator has admitted a claim of Rs. 2,10,44,289/- as against the receipt of claims for Rs.2,10,44,289/-. The liquidator has not rejected any claim made by the UCO bank and admitted in full. Pursuant to Regulation 21(b) the liquidator has investigated the records of the ROC for certificate of registration of charge issued by the Registrar of Companies and found the adequate charges are created in the records of ROC in favour of the secured financial creditor. And this evidence is available in the public domain, in the MCA website under charges of company master data of GCL Private Limited. Date pertaining to creation of charges as per MCA records and after physical verification of the relevant document the liquidator is satisfied with the availability of records under Regulation 21 (3) of the Liquidation Regulation and confirms availability of the security interest and permit



the secured creditor to realize the following assets in entirety for which security interest is in existence. Accordingly, the liquidator has issued as order to the UCO Bank, the secured financial creditor on 03.02.2021. As per the Regulation 32(e) of the Liquidation, the corporate debtor was either a going concern or having valuable assets in its possession for the liquidator to try and sell the company. The liquidator strongly felt that there could not be any other mode for revival of the business but to propose for dissolution of the company. Compliance certificate in Form H prepared by the Liquidator is attached at Page No. 117 of the Application.

- (6) The realisation from sale of Current Assets and Bank Balances on liquidation is Rs. 8.33 Lakhs.
- (7) The Liquidator has distributed amount in terms of Section 53 of the Code in the following manner:

		Rs. In Lakhs	
	Particulars	Amount Distributed	Percentage to admitted claims
1	(a) CIRP Costs	1.11	100%
2.	(b) Liquidation cost U/R 4	7.22	33%
3.	(b)(i)- Workmen's dues	0	0
3	Undistributed Proceeds transferred to IBBI - Corporate Liquidation Account (u/s 46)	0	0
		8.33	38%

- (8) Details of Receipt & Payment Account of M/s. Blue Whale Machinerics Technologies Private Limited, a Company under Liquidation, from the commencement date are as follows:

Sl. no	Particulars	Dec 20	Jan 21	Feb 21	Mar 21	Apr 21	May 21	Jun-Nov 21	Total
A	Opening Bank Balance	5,32,672	5,32,672	1,06,601	1,88,583	70,578	70,578	0	5,32,672
B	Received from Trade Receivables	-	1,00,000	2,00,000	-	-	-	-	3,00,000
C	Total Availability	5,32,671.58	6,32,672	3,06,601	1,88,583	70,578	70,578	0	8,32,672
D	Expenses								
	Sudarshan-Expenses reimburse		37,100				11578	-	48,678
	The Geetha Advertising-PA		24,024					-	24,024
	HSR & Associates Legal Fee		16,000					-	16,000
	Bharath & Associates-Tax		5,900					-	5,900
	CIRP Fee		88,993					-	88,993
	Liquidator's Fee		3,54,000	1,18,000	1,18,000		59,000	-	6,49,000
	Bank charges		54	17.41	5				77



Total Expenses		5,26,071	1,18,017	1,18,005		70,578	-	8,32,
Balance available	5,32,672	1,06,601	1,88,583	70,578	70,578	0	0	

(9) It is also stated that the Liquidator has proposed the corporate debtor for dissolution under section 54 of IBC, 2016 since the liquidation proceeds are Nil and the distribution to the stakeholders under section 53 is also Nil. The Liquidator vide letter dated 17.11.2021 has requested the Karur Vysya Bank to close the Liquidation account of the Corporate Applicant and the Final Report date 14.11.2021 as per Regulation 45 of IBBI (Liquidation Process) Regulations has been submitted by the Liquidator.

3. Heard Mr. Hemanth Rao, learned Counsel for the Applicant/Liquidator. We have carefully perused the pleadings of the Party along with extant provisions of the Code and the Regulations made thereunder.
4. From a perusal of the details narrated supra, it appears that the Ld. Liquidator has complied with all the conditions and procedural requirements, as specified under various provisions of Section 54 of the Insolvency & Bankruptcy Code, 2016 and also the extant IBBI Regulations. We have also considered the manner in which the available assets have been dealt with prior to the dissolution of the Corporate Applicant. It is seen from the Receipts and Payments Account furnished that the entire amount in Bank and receipts from sale of assets, totalling Rs.8.32 Lakhs have been utilised to defray various statutory and other expenses. In view of this factual matrix, we are of the view that the said I.A. No.365 of 2021 seeking dissolution of the Corporate Applicant, deserves to be allowed, as prayed. As the I.A.No.365 of 2021 is disposed of allowing dissolution of the Corporate Applicant, consequently the C.P. (IB) No.159/BB/2020 also stands disposed of.
5. In the result, in exercise of the powers conferred on the Adjudicating Authority, under Section 54 of the Code, the Interim Application bearing I.A.No.365 of 2021 and C.P.(IB)No.159/BB/2020 are hereby disposed of with

the following directions:



No.365 of 2021 &  
(IB) No.159/BB/2020

- (1) The Corporate Debtor, namely, M/s. Blue Whale Machinery Technologies Private Limited is dissolved, with immediate effect;
- (2) The financial creditors UCO Bank, Kotak Bank & Adithya Birla Finance Limited of the corporate applicant are directed to pay the liquidation expenses as per Regulation 2A of the IBBI (Liquidation Process) Regulation, 2016 and the liquidator is directed to close all the accounts of the corporate debtor within one week from the date of receipt of copy of this order;
- (3) The Registry is directed to forward a copy of this Order to the Registrar of Companies Karnataka, Bangalore, within a period of two weeks from the date of receipt of this order, for further necessary action as prescribed under Law;
- (4) The Ld. Liquidator is directed to forward copies of this Order to all other statutory authorities connected with the affairs of the Company, for further necessary action as prescribed under Law.
- (5) With this, the instant **I.A. No. 365 of 2021**, and the Company Petition bearing **C.P. (IB)No.159/BB/2020** also stands **disposed of**.

-Sd-

**(MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**



-Sd-

**(KRISHNA VALLI)**  
**MEMBER (JUDICIAL)**

CERTIFIED TO BE TRUE COPY  
 OF THE ORIGINAL

for DEPUTY ~~REGISTRAR~~ REGISTRAR *2403*  
 NATIONAL COMPANY LAW TRIBUNAL  
 Bengaluru Bench

