

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD SPECIAL BENCH
COURT - 1

ITEM No.9

IA/88(AHM)2021 in CP(IB) 51 of 2017

Order under Section 54 IBC

IN THE MATTER OF:

Ramchandra D Choudhary Liquidator of Radheshyam FibresApplicant
Pvt Ltd

Order delivered on ..16/03/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Ajai Das Mehrotra, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

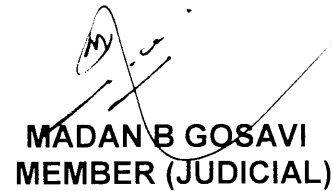
ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.



**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**



**MADAN B GOSAVI
MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

**I.A. No. 88 of 2021
IN
C.P. (I.B.) No.51/NCLT/AHM/2017**

Through;
Mr. Ramchandra D. Chaudhary
Liquidator of
M/s. Radheshyam Fibers Private Limited

.....Applicant/ Liquidator

In the matter of:

M/s State Bank of India
Registered Office at
Corporate Center
Madam Cama Road
Nariman Point
Mumbai-400031.

**.....Applicant/
Financial Creditor**

Versus


M/s Radheshyam Fibers Private Limited
134, Sardar Patel Marketing Yard
National Highway-8 B,
Gondal
Rajkot-360311
Gujarat

.... Respondent/Corporate Debtor

Order reserved on 23.02.2022

Order delivered on 16.03.2022

Coram: Madan B. Gosavi, Member (Judicial)
Ajai Das Mehrotra, Member (Technical)



Appearance:


For the Applicant Advocate Mr. Arjun Padhiyar

For the Respondent Advocate Mr. Harmish K Shah

**(Through Video Conferencing)
[Order]
[Per Bench]**

1. The instant application has been filed by the liquidator under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as an "IB Code") seeking the order of dissolution of Corporate Debtor i.e. M/s. Radheshyam Fibers Private Limited on the ground that the assets of the Corporate Debtor have been fully liquidated.
2. The Corporate Debtor was admitted in Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") vide order dated 07.08.2017 at the instance of the Financial Creditor under section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "Ib Code"). Mr. Ramchanrda D. Chaudhary was appointed as IRP for the completion of CIRP. IRP formed the Committee of Creditors (hereinafter referred to as "**COC**") under section 21 of IB Code in terms of section 15 of IB Code read with regulation 6 of The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 (hereinafter referred to as "**CIRP Regulations**").

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3. The applicant has submitted that no plan was received in pursuance to the publication of form G for Expression of Interest thereupon Committee of Creditors in the fourth meeting dated 12.12.2017 resolved to liquidate the Corporate Debtor. It was also resolved to appoint the applicant as a liquidator. This Tribunal vide order dated 15.01.2018 in IA 13 of 2018 passed an order of liquidation and appointed the applicant as liquidator.
4. The liquidator announced under Rule 12 of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter referred to as "**Liquidation Regulations**") inviting the claim of stakeholders of the corporate debtor and the public announcement was made in two newspapers one national newspaper "Times of India" in English and "Phul Chaab" in Gujarati on 17.01.2018.
5. The applicant has submitted that the list of stakeholders was prepared by the applicant and the same was filed to this Authority on 23.08.2018. The list of the stakeholders is as under;

Sr. No.	Date	Name of the Creditor	Form	Amount Admitted	Security Interest
1.	14.02.2018	SBI, SAM Branch, Ahmedabad (Financial Creditor)	D	52,36,39,744	Exclusive charge on the assets of the

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					company
2.	08.03.2018	Income Tax Department through Deputy Commissioner of Income Tax, Circle, 1 (2), Rajkot (Operational Creditor)	C	16,09,670/-	

6. The liquidator has opened a liquidation account under regulation 41 of the Liquidation Regulations with the State Bank of India in name of the Corporate Debtor. The first progress report was filed by the liquidator on 24.04.2018 and also submitted the Preliminary Report within 75 days before this Tribunal on 13.03.2018 under regulations 34 of Liquidation Regulations. As per the Preliminary, the Corporate Debtor has a liability of Rs. 47,65,68,475/- (liabilities include secured and unsecured loan, trade payable, Government dues, employees dues, etc.) as on 15.01.2018. The preliminary report contains the estimated liquidation cost, which is Rs. 32,61,600/- and lists the following properties for disposal;

Sr. No	Description of Assets	Value as per Valuer-1	Values as per Valuer-2	Average of the two values
1	Factory Premises Factory Land admesuring 16548.80 Sq. Mtrs. Shed/Building thereon having Built up area: 15834.77 Sq. Mtrs apprs. And various	1425.00	1627.01	1526.00

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	ginning machineries situated at: Rs. No. 51 paiki plot no. 2,3,4 & plot no. 3,4,5, off. Rajkot-Gondal National highway, Hadamtala, Kotada sangani, Rajkot			
2	Industrial Plot No. 12 at Hadamtala Industrial plot admeasuring: 1519.13 Sq. Mtrs. Situated at: R. S. No. 52 Paiki, Plot No. 12, Bh Shyam Ginning, off. Rajkot-Gondal National highway, Rajkot.	96.00	112.49	104.24
3	Open Plot No. 2 Gondal Open plot admeasuring: 362.28 Sq. Mtrs. Situated at Plot No. 2, Royal park society, R.S. No. 446 Paiki 5, Gondal-Gondala Road, Ta. Gondal, Dist. Rajkot	25.00	27.53	26.27
4	Plot No. 3 Gondal Open plot admeasuring: 349.91 Sq. Mtrs situated at Plot No. 3, Royal park society, R.S. No. 446	22.00	26.59	24.30
5	Shop at Gondal Office admeasuring 37.07 Sq. Mtrs. Located at: Sardar Patel Marketing Yard, R.S. No. 484/A, 481/1-2-3, At & Ta. Gondal, dist. Rajkot	15.00	18.24	16.62
6	Office at Iscon Office No. 336 & 337 Amdmeasuring: 63.20 Sq. Mtrs. Located at: 2 nd floor, Iscon mall, Nr. Chandra park II, Opp. Relilance mega mall, 150 feet ring, Rajkot	42.00	49.04	45.52
7	Plant & Machinery	42.50	46.80	44.65
	Others Assets			
	(i)	NIL	NIL	NIL
	(ii)	NIL	NIL	NIL
	Total	1667.50	1907.70	1787.60

7. It is submitted by the applicant that eight e-auction publications were made by the liquidation for the realization of the aforesaid assets. But, out of these seven properties only three could be sold through e-auction, the realized amount was Rs. 1,56,50.000/-. The realized amount was distributed to the State Bank of India. The properties sold out through e-auction are as under;

(b) details of Properties sold.

Sr. No.	Description of Assets	Realized Amount Rs.
1.	Office at ISCON Office No. 336 & 337 admeasuring: 63.20 Sq. Mtrs. Located at: 2 nd Floor, Iskon Mall, Opp. Reliance mega mall, 150 feet ring road, Dist: Rajkot	65,00,000
2.	Open Plot No. 2 Gondal Open plot admeasuring: 362.28 Sq. Mtrs. Situated at Plot No. 2, Royal Park, R.S. No. 446 Paiki 5, Nr. Gundala, Gondal Road, Ta. Gondal, Dist. Rajkot	45,50,000
3.	Plot No. 3 Gondal Open plot admeasuring: 349.91 Sq. Mtrs. Situated at Plot No. 3, Royal Park, R.S. No. 446 Paii 5, Nr. Gundala, Gundal Road, Ta. Gondal, Dist. Rajkot	45,00,000
	Total	1,56,50,000

8. The liquidator appointed three registered valuers vide letters dated 11.12.2019, 17.12.2019, and 03.01.2020 for revaluation of unsold properties of the Corporate Debtor. This Authority vide order dated 17.06.2020 in IA 286 of 2020 has extended the liquidation period for further for sic months.
9. The applicant has stated that it was noticed by the applicant that there are a few sundry debtors from whom, the amount was to be realized. The applicant issued a letter dated 28.08.2018,


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02.07.2019, and 29.10.2020 to the Debtors of the Corporate Debtor for recovery of the amount. But, all the Debtors have replied satisfactorily thereby the applicant did not take any coercive action for recovery of the amount. In the meantime, the State Bank of India, assigned all its right to recover the outstanding debts from the Corporate Debtor to one NBFC, namely Raj Radhe Finance Limited. Thereafter, the applicant modified the list of creditors and filed the same before this Authority on 01.12.2020.

10. It is also stated by the applicant that due to the non-realization of unsold properties of the Corporate Debtor, the applicant appointed a consulting firm for the realization of the unsold assets of the Corporate Debtor for which the professional fee of Rs. 30,00,000/- was agreed to be paid. Due to the efforts of the consulting firm, the unsold properties were sold for Rs. 11,21,21,000/-.The applicant distributed the amount of Rs. 11,09,12,812/- to the Raj Radhe Finance Limited (after deduction of liquidation costs). The details of the aforesaid realized amount are as under;

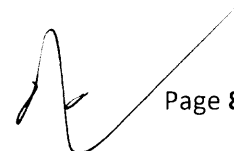
Description of property to be sold	Reserve Price (Rs.)			Amount realized from sale of the properties (Rs.)
	Kept in the previous E-Auction	Proposed by SCC in the meeting dt. 10/09/2020 after reduction of	After the appointment of CIRP Consultation Services Pvt. Ltd.	



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		10%		
Factory Land admeasuring 165.48.80 Sq. Mtrs., Shed/Building thereon having Built up area: 15834.80 Sq. Mtrs approx. and Ginning Machineries situated at: R.S. No. 51, Paiki Plot no. 2, 3,4 & R.S. No. 51, Paiki Plot No. 3,4,5 Rajkot-Gondal National highway, Hadamatla, Kotasangani, Rajkot	72,00,000	64,80,000	1,00,00,000	1,01,00,000
Office admeasuring 37.07 Sq. Mtrs. Located at: Office No. 19, 1 st Floor, Sardar Patel mkt Yard, At&Ta. Gondal, Dist, Rajkot	12,60,000	11,34,000	15,00,000	15,25,000
TOTAL-Gross Amount	9,84,60,000	8,86,14,000	11,15,00,000	11,21,25,000
Less: TDS u/s 194 IA				8,12,063
Amount realized - Net of TDS				11,13,12,927

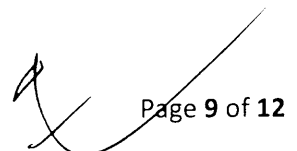
11. The applicant further stated that after distributing the amount to the financial creditor, Raj Radhe Finance Limited, an amount of Rs. 5,75,580 was lying in the liquidation bank account. After

deducting the amount of Rs. 3,35,580/- as a liquidation cost, an amount of Rs. 2,50,000/- was distributed to Raj Radhe Finance Limited. It is also submitted by the applicant that earlier the liquidation costs were estimated at Rs. 32,61,600/- but, finally the amount of liquidation cost was Rs. 70,48,318/-

12. It is submitted by the applicant that the balance-sheet of Corporate Debtor for the financial year 2015-16, 2016-17, 2017-18 and 2018-19 have been filed with the Registrar of the Companies, Gujarat and it is also stated that there are no pending litigations against the Corporate Debtor before any Court/Tribunals/Forums.
13. The applicant has further submitted that the asset of the Corporate Debtor has been fully liquidated and the amount due to the stakeholders/claimants has been distributed. Presently, nothing remains to be realized. The applicant conducted the final meeting of the stakeholder's consultation committee on 11.12.2020 wherein the stakeholder consultation committee resolved for dissolution of the Corporate Debtor. Thereby, the applicant has filed the present application for dissolution of the Corporate Debtor.
14. The applicant has filed the final report along with Form-H in compliance with Regulation 45 of the Liquidation Regulations


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wherein it has been stated that the assets of the Corporate Debtor have been realized and nothing remains to be disposed of.

15. Heard the learned counsel of the applicant and perused the material on record. It is noted that there were 5 properties of the Corporate Debtor which has been fully realized and the amount of Rs. 1,56,50,000/- has been distributed to the State Bank of India and Rs. 11,09,12,812/- has been distributed to the M/s. Raj Radhe Finance Limited, assignee of State Bank of India. No amount has been distributed to any other stakeholder since no employees/Workmen have submitted his claim before the liquidator.
16. It is also noted that as per the preliminary report the liquidation cost was estimated at Rs. 32,61,600/-, due to non-realization of unsold properties of the Corporate Debtor one consulting firm was hired to realize the unsold assets, and three valuers were appointed for conducting the fresh valuation of unsold property. The liquidation cost thereby increased from Rs. 32,61, 600/- to Rs. 70,48,618/-.
17. We are of the considered view that in view of the preliminary report, progress report, final report submitted by the liquidator all the assets of the Corporate Debtor have been sold out and the amount has been distributed to the Financial Creditor/claimants.

Hence, nothing remains to be realized. Whatever assets the



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Corporate Debtor was having, have been fully liquidated to the satisfaction of its Creditors. Final Report as prescribed under liquidation process Regulations has also been submitted.

Section 54(2) of the Insolvency and Bankruptcy Code, 2016 states that:

“the Adjudicating Authority shall on application filed by the liquidator under Sub-Section (1) order that the Corporate Debtor shall be dissolved from the date of that order and the Corporate Debtor shall be dissolved accordingly. “

18. Invoking the above provision of law, and finding that the assets of the Corporate Debtor have been fully and completely liquidated to the satisfaction of the Creditors, there remains nothing to keep the Corporate Debtor /Company alive. Hence, we pass the following order:

ORDER

- I. The instant application is allowed. M/s. Radheshyam Fibers Pvt. Ltd, having CIN No. U17111GJ2004PTC044535 having Office At: 9/B, Vardan Tower, Near Vimal House, Lakhudi Circle, Navrangpura, Ahmedabad, Gujarat stands dissolved from the date of this order as per Section 54(2) of the Insolvency and Bankruptcy Code, 2016.



- II. Copy of this order be sent/communicated to the Registrar of Companies, Gujarat, Ahmedabad within seven days from this order for information and necessary action.
- III. With the above directions, IA 88 of 2021 in CP (IB) 51 of 2017 stands disposed of.



(Ajai Das Mehrotra)
Member (Technical)



(Madan B. Gosavi)
Member (Judicial)

Ramashish