

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI

IA/293/IB/2020 in CP/191/IB/2018

(Filed under Sec. 54 of the Insolvency & Bankruptcy Code, 2016 read with
Regulation 45 of the IBBI (Liquidation process) Regulations, 2016)

IN THE MATTER OF:

A. Mohan Kumar

Liquidator of

M/s. Bharat Medicare Private Limited

Flat F1, Sudarsan Apartments,

72, VGP Selva Nagar, Second Main Road,

Velacherry, Chennai – 600 042

... Applicant

Present:

For Applicant

:

S. Sathiyamarayana, Advocate

CORAM :

**JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

Order pronounced on 13th June 2023

ORDER

(Hearing conducted through VC)

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

IA/293/IB/2020 is an Application filed by the Liquidator of M/s.

Bharat Medicare Private Limited under Section 54 of the Insolvency and

Bankruptcy Code, 2016 read with Regulation 45 of the IBBI Liquidation process) Regulations, 2016 seeking relief as follows;

- a. *That the Bench may pass orders for dissolution of M/s. Bharat Medicare Private Limited, the Corporate Debtor; and*
- b. *Pass any such other Orders or directions as deem fit and appropriate by the Hon'ble Bench.*

2. The Corporate Insolvency Resolution Process in respect of the Corporate Debtor viz. Bharat Medicare Private Limited was initiated by this Tribunal in an Application filed by an Operational Creditor under Section 9 of IBC, 2016 vide its order dated 18.04.2018 and the Applicant herein was appointed as the 'Interim Resolution Professional'.

3. Thereafter, this Tribunal vide its order dated 28.01.2019 ordered for Liquidation in respect of the Corporate Debtor and on 01.02.2019 the Liquidator has caused a Public Announcement in 'Business Standard (English) and 'Maalai Tamizhagam' (Tamil). It was submitted that the Public Announcement was also submitted to the Insolvency and Bankruptcy Board of India (IBBI) on 02.02.2019 to place the same on its website.

4. It was submitted that as required under regulations, the liquidator changed the nomenclature of one of the Bank accounts in the name of Corporate Debtor with HDFC Bank to "LIQUIDATION A/C OF BHARAT MEDICARE P L" for depositing all amounts realized from sale of assets and other receivables and for distribution of proceeds to stakeholders.

5. It was submitted that as required under Regulation 13 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator submitted the Preliminary Report to this Tribunal on 03.04.2019. Further, it was submitted that as required under Regulation 34 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator submitted the Asset Memorandum report to this Tribunal on 03.04.2019.

6. It was submitted that the Liquidator intimated the commencement of liquidation and appointment of liquidator to the Income Tax Authority and further it was submitted that the Liquidator has also filed the Income Tax Return for the Financial Year 2018 – 2019.

The Liquidator has also informed other Statutory authorities like Employee State Insurance and Provident Fund that the Company is under Liquidation.

7. It was submitted that the Liquidator verified the claims received and submitted the List of stakeholders to this Tribunal on 03.04.2019. It was submitted that the Liquidator as per Regulation 31 read with Regulation 12(3) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 made a public Announcement of the list of stakeholders filed with this Tribunal in 'Business Standard' and in 'Malai Tamizhagam', on 03.04.2019.

8. It was submitted that the sale proceeds received from sale of assets were deposited in a separate bank account maintained in the name "LIQUIDATION A/C OF BHARAT MEDICARE PL." with HDFC Bank.

9. The Learned Counsel for the Liquidator submitted that the Corporate Debtor was not registered with GST prior to commencement

of Liquidation and post the order of Liquidation, the Liquidator registered and obtained GSTIN for the Corporate Debtor. It was submitted that the Liquidator has filed up-to-date returns and also that the Liquidator has filed for the cancellation of Goods and Service Tax (GST) Registration in the State of Tamil Nadu and received cancellation order in Form GST REG – 19. It was submitted that the GST payments have been duly remitted during the Liquidation period.

10. The distribution to the stakeholders were made based on the claims admitted and the table below contains the information on the disbursement made to the stakeholders:

S. No	STAKEHOLDERS UNDER SEC. 53	AMOUNT CLAIMED	AMOUNT ADMITTED	AMOUNT DISTRIBUTED	REMARKS
1	CIRP Costs	2,66,556.00	2,66,556.00	2,66,556.00	
2	Liquidation Costs	50,46,539.86	50,46,539.86	50,46,539.86	Includes Rent to the premises where machine were stationed
3	Workmen	-	-	-	-
4	Employees	-	-	-	-
5	Secured Financial Creditors	2,98,684.00	2,98,684.00	NIL	The Creditor, Citicorp Finance India Ltd. had advanced loan on hypothecation of medical equipment purchased by Corporate Debtor. The Company has paid both Principal and Interest to M/s. Citicorp. The amount of claim of Rs.2,98,684/- relates to penal charges, since the company made



					certain payments in a delayed manner.
6	Unsecured Financial Creditors	-	-	-	-
7	Operational Creditors	57,59,551.00	41,83,615.00	NIL	There was no surplus left after meeting the Liquidation Expenses
8	Claims from others	-	-	-	-
	TOTAL	69,89,410.00	54,13,474.00	53,13,095.86	

11. The Learned Counsel for the Liquidator submitted that as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator has submitted the Progress report and the Asset Sale Report for each quarter ended since the commencement of the liquidation as detailed below:

S. No.	PARTICULARS	DATE
1	Progress Report for the Quarter ended 31.03.2019	15.04.2019
2	Progress Report and Asset Sale Report for the quarter ended 30.06.2019	11.07.2019
3	Progress Report and Asset Sale Report for the quarter ended 30.09.2019	09.10.2019
4	Progress Report and Asset Sale Report for the quarter ended 30.12.2019	21.01.2020
5	Progress Report and Asset Sale Report for the quarter ended 14.02.2020	15.02.2020

12. The Learned Counsel for the Liquidator submitted that the Auditor's Certificate on the receipts and payments pertaining to the Liquidation since the liquidation commencement date till 14.02.2020 was submitted along with the Progress Report.

13. The Liquidator has filed Form – H ‘Compliance Certificate’ and a perusal of the same would manifest the fact that no Application under Section 43, 44, 45, 49 and 66 of IBC, 2016 is filed. Under such circumstances prayed for dissolution of the Corporate Debtor in terms of Section 54 of IBC, 2016.

14. Section 54 of the IBC, 2016 provides for dissolution of the Corporate Debtor which is as follows: -

Section 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 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.

(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.”

15. From the averments made in the Application along with the perusal of the final report and the Compliance Certificate filed in Form-H by the Applicant, it is seen that the Corporate Debtor has been



completely liquidated and, in the circumstances, as averred and as prayed for by the Applicant that an order for dissolution is required to be passed by this Adjudicating Authority under Section 54 of the IBC, 2016.

16. Accordingly, we hereby order for the dissolution of the Corporate Debtor viz., **M/s. Bharath Medicare Private Limited** and the Liquidator is directed to forward a copy of this Order to the RoC concerned and also to the IBBI for its records within a period of 7 days from the date of this Order.

17. Accordingly, IA293/IB/2020 stands **allowed**.



— Sd —

SAMEER KAKAR
MEMBER (TECHNICAL)



— Sd —

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT

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