



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court -II)  
KOLKATA**

**IA(IBC)/9(KB)2023  
in  
CP(IB)/1304(KB)2019**

*Under sections 54 and 60(5) of the Insolvency & Bankruptcy Code, 2016  
read with rule 11 of the National Company Law Tribunal Rules, 2016  
and Regulations 14 and 45 of the IBBI (Liquidation Process)  
Regulations, 2016.*

*In the matter of:*

Kamar Infrastructure Private Limited

.... Operational Creditor

*Versus*

**Sensetive Infra Private Limited  
(CIN: U70102WB2014PTC202764)**

.... Corporate Debtor

*And*

*In the matter of:*

Mr. Abhit Kumar Singh,  
Liquidator of Sensetive Infra Private Limited

... Applicant

**Order reserved on: 12/10/2023**

**Order pronounced on: 21/11/2023**

*Coram:*

<b>Smt. Bidisha Banerjee</b>	<b>:</b>	<b>Member (Judicial)</b>
<b>Shri Arvind Devanathan</b>	<b>:</b>	<b>Member (Technical)</b>

*Appearances (through video conferencing):*

For RP	:	Ms. Shreya Choudhary, Adv. Mr. Abhit Kumar Singh, Liq. in person
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**ORDER**

***Per: Bidisha Banerjee, Member (Judicial)***


1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/9(KB)2023** is an application filed by the Liquidator of **Sensitive Infra Private Limited**, the Corporate Debtor, praying for dissolution of the Corporate Debtor under section 54 of the Insolvency and Bankruptcy Code, 2016. This application is supported by an affidavit<sup>1</sup> duly affirmed by the Liquidator.
3. This Adjudicating Authority *vide* order<sup>2</sup> dated 18/02/2020 in CP(IB)/1304(KB)2019, on a petition filed by Kamar Infrastructure Private, Operational Creditor, had ordered initiation of CIRP against Sensitive Infra Private Limited, Corporate Debtor appointing Mr. Nitesh Kumar More as the Interim Resolution Professional (“**IRP**”). The said order was duly communicated to the IRP by the Registry, NCLT. Liquidation order was passed on 15/06/2022, appointing Mr. Nitesh Kumar More, Resolution Professional, as the Liquidator. *Vide* order<sup>3</sup> dated 21/06/2022, the applicant, in replacement of Mr. Nitesh Kumar More, was appointed as Liquidator.
4. In terms of regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 (**Liquidation Process Regulations 2016**), Public Announcement<sup>4</sup> in **Form B** was published on 01/07/2022 in “*Financial Express*” (English) and “*Ekdin*” (Bengali) calling upon the stakeholders to submit their claims stipulating last date of submission as 31/07/2022.
5. In response to public announcement in Form B only claim received by the applicant was from the Employees Provident Fund Organisation for a sum of Rs.2,713/- and same was admitted by the Liquidator upon verification. However,

<sup>1</sup> At pages 20 and 24 of the application

<sup>2</sup> Annexure ‘A’ at pages 28 to 32 of the application

<sup>3</sup> Annexure ‘B’ at pages 33 to 34 of the application

<sup>4</sup> Annexure ‘C’ at pages 38 to 39 of the application



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Stakeholders' Consultation Committee (“SCC”) could not be formed in absence of any claim being received by the Liquidator during the entire liquidation process period. Even the petitioning Operational Creditor has not filed its claim with the Liquidator in spite of informing the petitioning Operational Creditor vide e-mails dated 01/07/2022 and 14/07/2022 requesting to submit claim with the Liquidator. Copies of the said e-mails dated 01/07/2022 and 14/07/2022 form **Annexure ‘D’**<sup>5</sup>.

6. It is stated in the application there are no fixed assets or realizable assets in the Corporate Debtor, which the Liquidator can take possession of. A copy of the Balance Sheet of the Corporate Debtor as on 31/03/2019 forms **Annexure ‘E’**<sup>6</sup>
7. It is also stated in the application that the applicant had issued various e-mails to the entries whose dues are categorized as trade receivables under the asset side of the Financials of the Corporate Debtor on the basis of the details received from the suspended members of the Board of Directors of the Corporate Debtor. However, despite repeated follow-up communications, there has been no recovery from the said debtors of the Corporate Debtor. The applicant in its First Progress Report submitted on 17/10/2022 had duly indicated the same. Copies of the said e-mails are collectively form **Annexure ‘F’**<sup>7</sup>.
8. It is further stated in the application that the total CIRP cost as on 01/07/2022 stood at Rs.6,12,730/-, which this Adjudicating Authority vide its order<sup>8</sup> dated 15/06/2022 had granted a lump sum amount of Rs.3,00,000/-. The total liquidation cost incurred by the applicant as on 20/12/2022 is Rs.1,48,342/-. The schedule of CIRP and Liquidation costs forms **Annexure ‘G’**<sup>9</sup>.
9. The applicant submits that the realisation from assets of the Corporate Debtor would be 'zero'. As there was no SCC formed, the liquidation cost have also to

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<sup>5</sup> At pages 40 to 41 of the application

<sup>6</sup> At pages 42 to 53 of the application

<sup>7</sup> At pages 54 to 67 of the application

<sup>8</sup> At pages 35 to 37 of the application

<sup>9</sup> At pages 68 to 71 of the application



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be borne by the applicant himself. The applicant further submits that continuation of the liquidation process in the aforesaid circumstances would not serve any purpose, instead of incurring further expenses and it is just and proper to go for early dissolution of the Corporate Debtor as envisaged under regulation 14 of the Liquidation Process Regulations since realizable properties of the Corporate Debtor are insufficient to cover the cost of the liquidation process.

10. In compliance of regulation 45(3) of the Liquidation Process Regulations, the Liquidator has annexed **Form H**<sup>10</sup>. It is revealed from Form H that the Liquidator has not opened any liquidation account during the liquidation period. The Liquidator has duly submitted Preliminary Report and Asset Memorandum to this Adjudicating Authority on 11/07/2022 and also intimated Income Tax Dept. and GST/VAT authorities on 21/12/2022
11. It is to be noted here that the Liquidator has filed this application for dissolution on 30/12/2022 before expiry of 1 year liquidation period on 14/06/2023.
12. Various provisions of the Code dealing with the dissolution of the Corporate Debtor are as follows:

***“54. Dissolution of corporate debtor. -***

*(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.”*

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<sup>10</sup> Annexure ‘H’ at pages 72 to 88 of the application



**Regulation 14 of IBBI (Liquidation Process) Regulations** provides as under:


**“14. Early dissolution.**

*Any time after the preparation of the Preliminary Report, if it appears to the liquidator that-*

- (a) the realizable properties of the corporate debtor are insufficient to cover the cost of the 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.”*

13. A conjoint reading of these two provisions leads to the requirement of completion of the liquidation of the assets of the corporate debtor and subsequent application to the Adjudicating Authority by the liquidator for dissolution under section 54 of the IBC where the assets of the Corporate Debtor has been completely liquidated after distribution among the Stakeholders or for early dissolution under regulation 14 of the Liquidation Process Regulations when the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process, the liquidator may apply to the Adjudicating Authority for early dissolution.
14. In the instant case there are no realizable assets of the Corporate Debtor, no SCC was formed even liquidation costs so far incurred have also to be borne by the Liquidator himself. In the aforesaid circumstances continuation of liquidation process would result in incurring further expenses by the Liquidator and that the Liquidator has not open any Liquidation Account in the name of the Corporate Debtor since there are no realizable properties of the Corporate Debtor.
15. In view of the above facts and circumstances, this Adjudicating Authority in exercise of the powers conferred under sub-section (2) of section 54 of the Code



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hereby order dissolution of the Corporate Debtor, viz., ***Sensitive Infra Private Limited*** from the date of this Order, and the Corporate Debtor stands dissolved. Consequently, Liquidator stands relieved subject to all procedural compliances.

16. The Liquidator and the Registry are hereby directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within fourteen days of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
17. ***IA(IBC)/9(KB)2023*** in ***CP(IB)/1304(KB)2019*** is allowed with the above directions and the ***IA(IBC)/9(KB)2023*** and ***CP(IB)/1304(KB)2019*** are hereby **disposed of** accordingly.
18. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
19. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
20. File be consigned to records.

**Arvind Devanathan**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

Signed on this, the 21<sup>st</sup> day of November, 2023.

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