

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 2388 OF 2022

Under Section 35(1)(m) & (n) of
Insolvency & Bankruptcy Code, 2016

Mr. Pramod Dattaram Rasam

Liquidator/
...Applicant

V/s

Canara Bank ... Respondent

In the matter of

C.P.(IB) No. 1103/MB/2017

Leo Duct Engineerings and Consultant
Limited

...Corporate Applicant

Order delivered on: 11/10/2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances:

For the Applicant : Ms. Dhvani Bagdai, Advocate

ORDER

Per: Prabhat Kumar, Member (Judicial)

1. This application IA 2388/2022 is filed by the Applicant/Liquidator Shri Pramod Dattaram Rasam in the matter of M/s Leoduct Engineers and Consultants Limited, the Corporate Debtor, under Section 35(1)(m) and (n) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as Code) read with Regulation 37A and 38 of the IBBI (Liquidation Process)

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Regulations 2016 ("Liquidation Regulations") seeking distribution and assignment of Not Readily Recoverable Assets (NRRA) of the Corporate Debtor to enable the Applicant/Liquidator to complete the liquidation process of the Corporate Debtor.

- 1.1. The Liquidation against the Corporate Debtor commenced vide order dated 9th July 2019 passed by this Hon'ble Tribunal and the Applicant was appointed as the Liquidator of the Corporate Debtor.
- 1.2. The Liquidator thereafter made public announcement in Form B inviting claims from stakeholders, which was published in two newspapers, one in English and one in vernacular newspaper.
- 1.3. The Applicant/Liquidator thereafter submitted the preliminary report and the asset memorandum with the Hon'ble Tribunal. Accordingly, till date, seven progress reports have been prepared by the Applicant/Liquidator and have accordingly been submitted with the Hon'ble Tribunal.
- 1.4. It is submitted that most of the assets of the Corporate Debtor have been sold, except 2 assets and certain other NRRA assets, the details of which are as follows:

Sr. No.	Name of the Debtor/Asset	Amount Due
1.	Plant and Machinery and Vehicle	Rs.1,69,250
2.	Recovery from Gail Gas Limited	Rs.1.86 Crores
3.	Recovery from Vodafone Essar South Limited	Rs.1.06 Crores
4.	Towards transactions referred To in section 43 to 51 and 66 of the IB Code.	Rs.6.88 Crores

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5.	Income Tax Refund	Rs.1.69 Crores
	Total	Rs.11.65 Crores

- 1.5. The Applicant has further submitted that all the amounts realized by him from sale of the assets of the Corporate Debtor have been distributed to the stakeholders of the Corporate Debtor as per Section 53 of the IB Code. It is further submitted that the pending claim of the Respondent Bank i.e. Canara Bank is Rs.74,76,63,178/- which is more than the amount of NRRA assets.
- 1.6. With respect to the NRRA assets, the Applicant / Liquidator had made a public announcement in the newspaper on 28th September 2021 calling upon the parties to give their expression of interest for assignment of the NRRA assets of the Corporate Debtor. Various proposal were received over the period of time and were discussed and deliberated with the Stakeholders Consultation Committee, however, nothing fructified. The Liquidator has no funds left in the liquidation account and is compelled to keep the Corporate Debtor alive for the said NRRA assets.
- 1.7. Thus, the present application is being filed for assignment and distribution of the NRRA assets of the Corporate Debtor, to seek -
- a. Permission to distribute the Not Readily Recoverable Assets (NRRA) of the Corporate Debtor under regulation 38 to stakeholder Canara Bank as mentioned in the table at Para 8 of this application;
or
 - b. in the alternative, permission to distribute under regulation 38 to Canara bank the NRRA assets mentioned in table at Para 8, except the I.A. No. 1635 of 2019 filed under Section 43 to 51 and 66 of the IB Code towards preferential, undervalued, extortionate and fraudulent transactions, and allow the Applicant/Liquidator to assign/

transfer under regulation 37A the same to any third party, as the Hon'ble Tribunal may deem fit.

2. Heard Learned Counsel and perused the materials available on records.
 - 2.1. From the 5th minutes of meeting of stakeholders held on 3rd June 2022, we find that Mr. Paritosh Kumar of Canara Bank has submitted that all other NRRA assets can be taken over by Canara Bank excluding the Petitions under transactions referred to section 43 to 51 and Section 66 of the Code of Rs.6.88 Crores. He asked the liquidator about the methodology to recovery and distributions in future from the assignment of petitions; the liquidator explained that we can open a account with the expenses share limit, liquidator fees and observer fees for observing conduct of assignee and share ratio in future realization; and the Liquidator informed the SCC that he proposed that all the expenses will be born by him and share of realisation will be net of 50:50, whenever realised.
 - 2.2. We also find that the liquidator proposed the name of Mr. Arvind Kumar Gupta, to take over those assets. The Canara Bank representative informed liquidator about the acceptability of proposed assignee of avoidance applications but no response came from them. We find that liquidator has also represented that his mail dated 20.06.2022 seeking further clarification on proposed assignment was not reverted.
 - 2.3. Regulation 37A and Regulation 38 of IBBI(Liquidation Process) Regulations 2016 reads as under :

37A. Assignment of not readily realisable assets.

(1) A liquidator may assign or transfer a not readily realisable asset through a transparent process, in consultation with the stakeholders' consultation committee in accordance with regulation 31A, for a consideration to any person, who is

eligible to submit a resolution plan for insolvency resolution of the corporate debtor.

38. Distribution of unsold assets.

38. (1) The liquidator may, with the permission of the Adjudicating Authority, distribute amongst the stakeholders, an asset that ((Substituted by the Insolvency and Bankruptcy Board of India (Liquidation Process) (Fourth Amendment) Regulations, 2020 vide Notification No. IBBI/2020-21/GN/REG067 dated 13th November, 2020 w.e.f. 13.11.2020 for the words “cannot be readily or advantageously sold”)[could not be sold, assigned or transferred] due to its peculiar nature or other special circumstances.

(2) The application seeking permission of the Adjudicating Authority under sub-regulation (1) shall-

(a) identify the asset;

(b) provide a value of the asset;

(c) detail the efforts made to sell the asset, if any; and

(d) provide reasons for such distribution.

2.4. From the perusal of application, we find that the Applicant has provided the details of the assets to be distributed in the manner provided in Regulation 38(2). In view therefore, this Bench is satisfied that prayed relief ought to be granted. Accordingly, this Bench permits the Liquidator to distribute the Not Readily Recoverable Assets (NRRA), except avoidance applications to stakeholder Canara Bank as mentioned in the table at Para 8 of this application; and take steps to call bid for

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assignment of avoidance applications to the third parties in the manner provided under the Code.

3. In view of the forgoing, the I.A. 2388/2022 is allowed and disposed of.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)