IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III

I.A. No. 2075 of 2020
In
C.P. No. 2488 of 2018

Under Section 54(1) of Insolvency & Bankruptcy Code, 2016

In the matter of

Global Rural Netco Limited

.... Financial Creditor

vs.

Atharva Advisory Services Private Limited

.... Corporate Debtor

<u>I. A. No. 2075 of 2020</u>

Mr. Laxmikant Yeshwant Desai

.... Applicant/ Liquidator

Order delivered on 07.06.2021

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Pranav Avhad, Advocate

Per Shri H. V. Subba Rao, Member (Judicial)

<u>ORDER</u>

1. It is an application filed by the Liquidator seeking an Order under Section 54 of the Insolvency and Bankruptcy Code, 2016for granting **"Dissolution"** of Corporate Debtor.

2. The Adjudicating Authority vide its order dated 27.11.2018 on a Petition filed by the Financial Creditor under Section 7 of the Code directed initiation of the Corporate Insolvency Resolution Process

(CIRP) against the Corporate Debtor namely M/s. Atharva Advisory Services Pvt. Ltd., wherein Mr. Manoj Kumar Jain, was appointed as Interim Resolution Professional (IRP). Thereafter, in the 1stCommittee of Creditors (CoC) meeting held on 27.12.2018, Mr. Manoj Kumar Jain, was resolved to be appointed as Resolution Professional (RP)and the same was approved by this Bench.

3. The Resolution Professional has reported that after the due publication of EOI, the CoC members realized that the last date for receiving EOI was April 30, 2019 and, no receipt of expression of interest nor any resolution plans were received till its last date, as confirmed by RP, nor there seemed to be any prospects of receiving such resolution plans in future and the Corporate Debtor was not into any business operations, and with no viable business opportunities. The COC members had already been reiterating that as the Corporate Debtor had no fixed assets and no employees on their payrolls, were incurring regular losses and in Debtor Company there was no Asset for Liquidation, therefore the members of the Committee of Creditors have approved for "Liquidation".As a consequence, an Order under Section 33(2) was passed on04.12.2019 and the Debtor Company was allowed to be 'Liquidated' under the provisions of The Insolvency and Bankruptcy Code, 2016.

4. The Learned Resolution Professional had taken necessary steps as prescribed under the Code and constituted 'Committee of Creditors'. The Applicant in compliance of law on 17.12.2019 and 18.12.2019 made public announcement in "Free Press Journal" (English) and "Navshakti" (Marathi) inviting claims from the creditors of the Company and applicant also intimated IBBI about the same and on 17.12.2019 intimated the ROC Mumbai.

5. That the applicant states that dues of Rs 1,07,764/ were recoverable from M/s Static Trading and Investment Solutions Pvt Ltd. Pursuant to the reminders and notice issued by the Liquidator, on February 1, 2020, the entire amount of Rs 107,764/- was credited by the party into the new liquidation bank account of the Corporate Debtor with ICICI Bank.

6. That the applicant further states that the Liquidator has taken steps for transferring securities of the Corporate Debtor from HDFC Securities to the newly opened DP and Trading account with ICICI Securities. Copy of Demat statement issued by ICICI Securities confirmed that as of February 4, 2020, securities with HDFC Securities have been transferred to the credit of the Corporate Debtor's Demat account with ICICI Securities.

7. That the applicant states that pursuant to publishing Form B, the liquidator received claims aggregating Rs 232,74,16,086/-from various stakeholders together with supporting proofs, all before last date - January 12, 2020. Upon scrutiny of claims, additional documentation was called for where required, and upon its receipt and final verification, all claims received were duly accepted by the Liquidator and communicated likewise to the respective stakeholders.

8. On 26.02.2020, the Learned Liquidator filed the Asset Memorandum and Preliminary Report, informing the assets of the Corporate Debtor comprised of only cash/ bank balances and listed securities aggregating 200,00,000 equity shares of FV Rs 10 each in GTL Infrastructure Limited (Symbol: GTLINFRA and ISIN No INE221H01019), listed on BSE and NSE.

9. That the applicant states that the balance in the liquidation bank account of the Corporate Debtor was Rs. 60,15,930/- as of July 31st, 2020. The fund distribution was made in two tranches. Against the 1st interim tranch, an amount of Rs. 37,30,660/- was distributed on August 11th, 2020 and similarly, an amount of Rs. 22,85,270/- was further distributed on September 26th, 2020 as the 2nd and final tranche aggregating Rs. 60,15,930/-. The bank balance post the above distributions is zero and accounts are closed.

10. That the applicant states that the Liquidator had entered into an agreement with M/s Willard Advisory Private Limited having its office at Mumbai to store and maintain all records and documents of the Corporate Debtor, pertaining to past period of 8 years for a further period of 8 years, as per the requirements of IBC, 2016. The rental charges for the entire tenure has been paid out to the service provider

upfront as agreed upon. Copy of the agreement with Willard Advisory Private Limited for storage of records and documents of the Corporate Debtors of past period of 8 years for a further period of 8 years as per the provisions of IBC, 2016.

11. On 13.10.2020, the Learned Liquidator filed final Progress Report of the Corporate Debtor under Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. On careful perusal of the Application and the Progress Report on record it is noticed that neither there are Assets left with the Corporate Debtor nor any trade receivables are available. According, to Learned Liquidator the Debtor Company has no Asset which can be liquidated as is also evident from the Report of the Liquidator.

12. As per the Insolvency and Bankruptcy Board of India (Liquidation Process)Regulations 2016, vide Regulation No.14, it is prescribed as under:-

> "14. *Any time after the preparation of Preliminary Report,if it appears to the liquidator that –*
>
> (a) *The realizable properties of the corporate debtor are insufficient to cover the cost of 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. In the light of the above it is noticed that the Corporate Debtor does not have assets to be liquidated hence an Application is moved for the "Dissolution of the Corporate Debtor". This Section is to be read along with Regulation 14 of IBBI (Liquidation Process) Regulations 2016 which says that any time after the preparation of a Preliminary Report if it appears to the Liquidator that the realizable properties of the Corporate Debtor are insufficient to cover the cost of Liquidation process, and the affairs of the Debtor do not require further investigation may apply to NCLT for early dissolution of the Corporate Debtor.

14. The Applicant/ Liquidator submits that the as per Regulation 13 of IBBI (Liquidation Process) Regulations, 2016 Preliminary report was filed on 26.02.2020 and the 1st progress report was filed on 15.01.2020, 2nd Progress report was filed on 04.09.2020. Thereafter, 3rd progress report was filed on 13.10.2020. The Applicant further submitted that as per the return of income tax filed upto Assessment year 2019-2020, no demand is outstanding in this case. The Applicant further submitted that as per the return of income tax filed upto Assessment year 2019-2020, no demand is outstanding in this case. The Applicant Company received NOC dated 25.01.2021 from Income Tax department by the Applicant.

15. That the liquidator while preparing the Final progress report cameto the conclusion that there being no assets realizable or saleable, it will only increase the cost of liquidation, can opt for "Dissolution".

16. For the purpose of pronouncement of Dissolution of a Corporate Debtor Section 54 of The Insolvency and Bankruptcy Code, 2016 reads as under :-

> *"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 subsection (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.*

17. In this connection it is also worth to refer Section 59, Sub-Section 7of IBC. Although this Section is in respect of Voluntary Liquidation of a Corporate Person, however, according to which where

the affairs of the Corporate Person have been completely wound up, and its assets completely liquidated, the Liquidator shall make an Application to Adjudicating Authority for the Dissolution of such Corporate person. This Sub-Section is simply referred for the reason that in all such situation an Application is to be moved for seeking an Order of "Dissolution of a Corporate Person".

18. As a consequence, through this Order it is hereby declared that not only it is just and equitable but because of the fact that no asset is available for the purpose of 'Liquidation' as reported by Learned Liquidator, this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016.Ordered accordingly, stood 'Dissolved' from the date of this Order.

19. Since the Debtor Company stood Dissolved vide this order and no proceedings are now pending, therefore the Registry is directed that the case file be consigned to records.

20. Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies having jurisdiction, for further necessary action as prescribed under Law.

21. Accordingly, IA No. 2075 of 2020 is hereby allowed and disposed off and CP No. 2488 of 2018 is hereby closed.

Sd/-
SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)