

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA (IB) No. 357/CB/2023

In

CP (IB) No. 08/CB/2021

In the matter of:

An application filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (**Liquidation Process Regulations**) seeking closure of the liquidation process of the Corporate Debtor

-And-

In the matter of:

Mr. Umesh Chandra Sahoo, Liquidator of Y Pani and Company Private Limited, Nayadarshan Associates, Plot No-4, 2nd Floor Snowdrop Apartment, Cuttack Road, Jharpada Near India Oil Petrol Pump Bhubaneswar, Odisha- 751 006;

...Applicant/Liquidator

-In-

In the matter of:

Y. Pani and Company Pvt. Ltd, a company incorporated under the Companies Act, 1956, having its registered office situated at- A-1, Bnanphool House, Budha Nagar, Bhubaneswar- 751 006, Odisha.

...Corporate Debtor

Coram:

Shri P. Mohan Raj : **Member (Judicial)**
Shri Kaushalendra Kumar Singh : **Member (Technical)**

Appearances (through hybrid mode):

For the Applicant : Ms. Mrinali Prasad, Adv. For
Mr. Umesh Ch. Sahoo, Liquidator

Order pronounced on: 30.01.2024

ORDER

1. The instant application is filed by **Mr. Umesh Chandra Sahoo** Liquidator of Y Pani & Company Private Limited (for brevity "**Corporate Debtor**") under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with

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Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (**Liquidation Process Regulations**) seeking closure of the liquidation process of the Corporate Debtor on account of successful sale of the Corporate Debtor as a going concern.

2. The facts as mentioned in the application are briefly as follows:

- a) The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (**"CIRP"**) *vide* order dated 13.09.2021 by this Adjudicating Authority on a petition filed by Y. Pani and Company Pvt Ltd under Section 10 of the Insolvency and Bankruptcy Code, 2016 registered as CP (IB) No. 08/CB/2021. In the said order Mr. Umesh Chandra Sahoo was appointed as the Interim Resolution Professional. Thereafter, in the first meeting of CoC held on 12.10.2021, the applicant was appointed as the Resolution Professional. It is stated that during the CIRP no resolution plan was received. Therefore, in the 7th meeting of CoC held on 28.07.2022, a resolution for liquidation of the Corporate Debtor was passed with 100% voting share. Accordingly, the RP filed an application seeking liquidation of the corporate debtor and this Adjudicating Authority passed an order for liquidation of the corporate debtor *vide* order dated 31.10.2022 and appointed the applicant as the Liquidator.
- b) In pursuance to the liquidation order the liquidator made public announcement in **Times of India (in English)** and in **Paramaya (Odia)**, Bhubaneswar Edition, on 03.11.2022 wherein the last date for submissions of claims was 30.11.2022. The Liquidator received claims from the Creditors and constituted the Stakeholders Consultation Committee. The stakeholders have submitted their claims, which were verified by the liquidator, and submitted a list of Stakeholders before the Adjudicating

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Authority on 02.01.2023 as per Regulation 30 of the Liquidation Regulations.

- c) The Liquidator had prepared a Preliminary Report and Asset Memorandum, *inter alia*, containing the estate of the assets and liabilities and also prepared Progress Reports and Final Reports as stipulated in Regulation 15 and filed the same before the Adjudicating Authority. The Liquidation cost of the corporate debtor has not exceeded the Estimated Liquidation costs as described in the preliminary report filed before this Authority.
- d) That during the Liquidation process two Registered valuers were appointed for valuation of security and financial assets. Since there is no plant and machinery or land and building available, hence no valuer appointed for the said category. The valuer so appointed after valuation of the financial asset declared that Liquidation value of the Corporate Debtor is Nil.
- e) It is submitted that the First SCC meeting was held on 07.11.2022 wherein the current status of Liquidation Process was discussed and a compromise and arrangement proposal given by the unsecured financial creditor was discussed. Thereafter, in the Second meeting of SCC held on 14.12.2022, wherein the mode of sale of the corporate debtor was discussed. Thereafter in the 2nd SCC meeting, the Liquidator published a Sale Notice on 23.12.2022 for E-Auction of the Corporate Debtor as a going Concern in the newspapers the “**Times of India**” and “**Samaya**”. In terms of the sale notice, E-auction of the assets of the corporate debtor was to be conducted on 21.01.2023.
- f) No EoIs were submitted by the Prospective Investors till the last date for submission of EoI. Therefore, no e-auction were conducted. Therefore, the said issue was discussed in the 3rd meeting of SCC held on 14.03.2023,

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wherein the proposal given by Mr. Kamal Jajodia for buying the intangible asset of the Corporate Debtor such as the name and good will as a going concern for a consideration of Rs. 2,00,000/- through private sale. The SCC approved the said proposal of Mr. Kamal Jajodia with 100% voting share.

- g) Pursuant to the approval of the SCC members of sale of Corporate Debtor as a going concern through private sale, the Liquidator filed an application bearing No. IA (IB) No. 111/CB/2023 before the Adjudicating Authority seeking approval of the Ld. Adjudicating Authority for effecting the sale of Corporate Debtor as going concern for a consideration of Rs. 2,00,000/- (Rupees Two Lakh Only). The Adjudicating Authority vide its order dated 24.04.2023 allowed IA (IB) No. 111/CB/2023 for sale of Corporate Debtor as going concern to Mr. Kamal Jajodia through private sale for a consideration Rs. 2,00,000/-. The liquidator issued the sale certificate in favour of Mr. Kamal Jajodia after receiving the sale consideration of Rs. 2,00,000/- on 26.04.2023.
- h) It is submitted that no assets of the corporate debtor remained to be sold and realized. Liquidation has been able to sell the corporate debtor as a going concern in a private sale as per the order of NCLT passed in IA. No. 111/CB/2023 dated 24.04.2023. The sale price realized through the sale of the corporate debtor as a going concern in a private sale is insufficient to meet the CIRP and liquidation expenses. Therefore, there is no distribution of the proceeds of sale to the creditors as per Section 53 of the Code.
- i) Further, the liquidation had filed an application against the Suspended directors for avoidance for the transaction under section 66 of the Code. In the 4th SCC meeting dated 08.08.2023, the members of the SCC suggested to the applicant that they are not interest in pursuing the avoidance application. Hence, the avoidance application bearing IA. No. 57/CB/2022

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shall be withdrawn from the IA (IB) No. 57/CB/2022. The said application was withdrawn *vide* order dated 01.11.2023.

- j) That in compliance with regulation 44 of IBBI (Liquidation Process), Regulations, 2016, the liquidation process of the corporate debtor has been completed.
- k) In pursuant to the discussions held in 4th SCC meeting the Liquidator had filed an application bearing no IA (IB) No. 284/CB/2023 for dissolution of the corporate debtor, however during the course of the hearing it was realized that inadvertently the application for dissolution is inadvertently filed instead of closure of liquidation process in terms of Regulation 45 (3)(a) of the Liquidation Process Regulation, 2016. The Liquidation was withdrawn the dissolution application IA 284 of 2023 with liberty to file a fresh application for closure of the Liquidation Process.
- l) After the withdrawal of IA No. 284 of 2023 the Liquidator called the 5th meeting of SCC on 23.11.2023 and apprised them of the withdrawal of the dissolution application. Pursuant to the decision taken in the 5th SCC meeting the liquidator is hereby filing an application for closure of liquidation process in terms of Section 54 IBC read with Regulation 45 (3) (a) of the Liquidation Process Regulation.

3. We heard **Ms. Mrinali Prasad**, Advocate for Mr. **Umesh Ch. Sahoo**, Ld. Liquidator and perused the application filed by him. He has filed necessary documents along with the application. The Final report and a compliance certificate in **Form-H** is filed as **Annexure A-8**. This IA is filed under Regulation 45 (3) (a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 praying the Adjudicating Authority to order for closure of the liquidation process of the Corporate Debtor Company as the company was sold as going concern. The said provision reads as under: -

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“Regulation 45 (3) (a): Final report prior to dissolution.

(3) The liquidator shall submit an application along with the final report and the compliance certificate in form-H to the Adjudicating Authority for –

(a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern;

4. In this case the Corporate Applicant/corporate debtor was sold as a going concern as such it is a fit case for closure of Liquidation Process. We hereby order closure of the Liquidation proceedings against the Corporate Debtor viz. **Y PANI & COMPANY PRIVATE LIMITED** from the date of this Order, in terms of Regulation 45 (3) of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

5. The Liquidator is directed to send the copy of this Order within 7 days from the date of pronouncement to the Registrar of Companies, Cuttack, Odisha and the concerned authorities and hand over all the books and files of the Corporate Debtor as per provisions of the Code.

6. The Liquidator shall stand discharged from his responsibilities, subject to completion of procedural compliances, if any.

7. The Registry is directed to communicate this order to the Registrar of Companies, Cuttack, Odisha and concerned authorities for updating the master data.

8. A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.

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9. In terms of the above, IA No. 357/CB/2023 is **allowed** accordingly and the liquidation of the corporate debtor i.e. Y Pani & Company Private Limited stands **closed**. ✓

10. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

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Kaushalendra Kumar Singh
Member (Technical)

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P. Mohan Raj
Member (Judicial)

Signed on this, the 30th day of January, 2024.

Supriya P.S.