

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI  
BENCH-VI  
I.A- 4904/ND/2023  
IN  
CP(IB)-433/ND/2017**

*(Under Section 54 of the Insolvency and Bankruptcy Code, 2016)*

**In the matter of:**

M/s. Regal Metal & Ferro Alloys

...Operational Creditor

VERSUS

M/s. SPM Auto Private Limited

...Corporate Debtor

**And**

**In the matter of**

**Mr. Vijender Sharma**

(Liquidator of M/s. SPM Auto Private Limited)

... Applicant

**Coram:**

**Shri. Mahendra Khandelwal, Member (Judicial)**

**Shri. Rahul Bhatnagar, Hon'ble Member (Technical)**

**For the Applicant:** Mr. Vijender Sharma

## **ORDER**

**PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)**

**Date of pronouncement: 21.12.2023**

1. This application bearing number I.A. 4904/ND/2023 in CP(IB) 433/ND/2017 has been filed for dissolution of Corporate Debtor under Section 54 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as IBC, 2016) praying for the following reliefs:

- i. To pass an order to dissolve the Corporate Debtor under section 54 of the IBC, 2016*
- ii. Direct the RoC to record dissolution of the Corporate Debtor;*
- iii. Discharge Liquidator from the Liquidation process and any proceedings related to Corporate Debtor after necessary compliances with RoC and intimation to IBBI;*
- iv. Pass such other/ further and other reliefs as this Hon'ble NCLT may deem fit and proper in the facts and circumstances of the present case.*

2. To put it briefly, the facts of the case are that the petition for initiating CIRP was admitted by this Tribunal vide order dated 17.10.2017 and Mr. Nirmal Kumar Bhesoni was appointed as IRP.

3. That this Adjudicating Authority passed an order u/s 33 of IBC, 2016 to liquidate the Corporate Debtor on 25.09.2018 as no resolution plan was received and the Applicant was appointed as the Liquidator.
4. As per the circular dated 26.08.2019 issued by the IBBI informing the applicability of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019 notified on 25.07.2019, the provisions of the regulations are not applicable to the liquidation processes, which had commenced before coming into force of the said amended regulations and that they are applicable only to liquidation processes, which commenced on or after 25.07.2019. Therefore, the Applicant had not constituted the consultation committee.
5. The liquidator published the public announcement in Business Standard Newspaper on 15.02.2019 for selling of the assets of the Corporate Debtor through an auction in the manner specified in Schedule I of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter referred to as "Schedule I"). The liquidator announced to sell all the assets of the Corporate Debtor block wise i.e., into four blocks for Land & Building -

Behror, Land & Building - Bawal, Land & Building - Faridabad and Plant & Machinery of the Corporate Debtor. The three bidders had applied to purchase the plant & machineries of the corporate debtor, out of which only one i.e., CERA Hospitality Hub, was qualified by the liquidator based on the documents submitted by them. The qualified bidder participated in the e-auction process and deposited the balance amount within the stipulated timelines. No bidder against the public announcement dated 15.02.2019 came forward to purchase the Land & Building of Corporate Debtor situated at Behror, Bawal and Faridabad.

6. The liquidator published the public announcement in Business Standard Newspaper on 10.04.2019 for selling of the Behror properties of the Corporate Debtor through an auction in the manner specified in Schedule I. The two bidders applied to purchase these properties of the corporate debtor, out of which, both were qualified by the liquidator based on the documents submitted by them. The qualified bidders participated in the e-auction process and successful bidder i.e., DRY NUT Enterprise

had deposited the balance amount to the account of the CD within the stipulated timelines.

7. The liquidator published the public announcement in Business Standard Newspaper on 09.09.2019 for selling of the Faridabad property of the Corporate Debtor through e-auction. Two bidders applied to purchase these properties of the corporate debtor, out of which, both were qualified by the liquidator based on the documents submitted by them. The successful bidder i.e., M/s. JaiRaj Ancillaries Pvt. Ltd. had deposited the balance amount to the account of the CD within the stipulated timelines and pursuant to the same, sale certificate was issued to M/s. JaiRaj Ancillaries Pvt. Ltd.
8. The Bawal Property of the Corporate Debtor was sold by SIDBI, being the secured financial creditor of the Corporate Debtor through e-auction.
9. That in accordance with Regulation 41 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator had opened an account in the name of SPM Auto Private Limited (in liquidation) in Canara Bank bearing

number 5059201000136 for the crediting the realisation of all assets of Corporate Debtor.

10. That the Liquidator had made distribution of proceeds of realization to stakeholders as per Regulation 42 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 subject to provisions of Section 53, IBC, and details of the same areas under:

**(Amount in Rs. Lakh)**

Sr. No.	Stakeholders under section 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)
1	(a): CIRP Costs	35.83	35.83	35.83	100%
2	(a): Liquidation Costs	117.88	117.88	117.88	100%
3	(b)(i) Workers	Nil	Nil	Nil	0%
4	(b)(ii) Secured Financial Creditors				

	Canara Bank	9014.27	9014.27	590.44	6.55%
	Corporation Bank	2495.85	2495.85	849.22	33.67%
	SIDBI	1145.75	1136.29	378.83	33.06%
5	(c) Employees	Nil	Nil	Nil	0%
6	d)Unsecured Financial Creditor	2912.79	2912.46	Nil	0%
7	(e) Statutory & Government Dues (Upto 2 years)	1809.13	1754.25	Nil	0%
8	Operational Creditors	2214.38	1646.32	Nil	0%
8	Total	19592.35	18959.44	19113.15	

11. That Income Tax refund amount of Rs. 14,77,911/- of the Corporate Debtor was pending to receive for which the Applicant had filed an application under Sec 35(1)(n) of IBC read with Regulation 38 of IBBI (Liquidation Process) Regulations, 2016

bearing IA No. 1158/2023 to assign such amount to the Canara Bank and Union Bank of India as per the share mentioned. The said Application was allowed vide order dated 04.08.2023 assigning the Income Tax refund amounting to Rs.6,25,411/- plus interest thereon to Canara Bank and the Income Tax refund amounting to Rs.8,52,500/- plus interest thereon to Union Bank of India pursuant to Regulation 38 of IBBI (Liquidation Process) Regulations, 2016.

12. That Applicant/Liquidator filed application(s) and various documents/Reports which was required to be submitted as per the provisions of IBC, 2016 read with relevant regulations.
13. That the Liquidation process has been conducted as per the timeline indicated in regulation 47 details of which has been given in Form-H accompanied with this application.
14. That as required by Regulation 45(3) of IBBI (Liquidation Process) Regulations, 2016, Final Report has been filed by the Liquidator.
15. That compliance report in form H in terms of regulation 45(3) is placed on record by the Applicant.

16.It is submitted by the Applicant that there is no litigation pending against the Corporate Debtor to the best of knowledge, belief and effort of the Liquidator.

17. That no application on PFUE Transactions is pending.

18. That in view of the facts and circumstances, the Applicant submitted that all the assets of CD have been completely liquidated and/ or distributed to stakeholders as the provisions of law and there is nothing left to be further liquidated.

19. In view of the facts and circumstances, the Applicant prayed that the Corporate Debtor may be dissolved under Section 54 of IBC, 2016.

20. We have heard the submissions made by the Applicant, perused the Application and the compliance Affidavit filed by the Liquidator. Here, it is worthwhile referring to Section 54 of IBC, 2016 and Regulation 45 IBBI (Liquidation Process) Regulations, 2016:

***“Section 54 IBC-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.”*

**“IBBI (Liquidation Process) Regulations, 2016**

**45. Final report prior to dissolution.**

*1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor’s assets have been liquidated.*

*(2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.*

*(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; or*
- (b) for the dissolution of the corporate debtor, in cases not covered under clause (a).”*

21. That from the conjunct reading of the above provisions, this Adjudicating Authority is required to see that whether the assets

of the Corporate Debtor are completely liquidated or not. In the instant case the Liquidator has furnished his Final Report and Form-H.

22. Since in the instant case as discussed above, all the assets of the Corporate Debtor have been liquidated and all the requirements of Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 have been fulfilled, therefore, we are inclined to allow the present Application under Section 54(2) of the IBC, 2016.

23. Accordingly, there being no other impediment, the present Application is allowed and the Corporate Debtor is ordered to be dissolved with the immediate effect.

24. The Registry is directed to send a copy of this order passed under Section 54(2) to the ROC Delhi & Haryana, with which the Corporate Debtor is registered and the IBBI within seven days from the date of this order.

**SD/-**  
**(RAHUL BHATNAGAR)**  
**MEMBER (TECHNICAL)**

**SD/-**  
**(MAHENDRA KHANDELWAL)**  
**MEMBER (JUDICIAL)**