



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA No. 1945/2023

In

CP (IB) No. 3457/(MB)/2019

Under Sections 54(1) of the Insolvency & Bankruptcy Code, 2016 r/w Regulation 14 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Mr. Arun Kapoor

(Resolution Professional of Gorgeous Skin Private Limited)

...Applicant

In the matter of

Trig Detective Pvt. Ltd.

...Operational Creditor

V/s

Gorgeous Skin Pvt. Ltd.

...Corporate Debtor

Order delivered on: 08.08.2024



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Coram:

Anil Raj Chellan

Kuldip Kumar Kareer

Member Technical

Member Judicial

Appearance:

For the Applicant/RP : Counsel, Amit Tungare

ORDER

Per: - Coram

1. The present Interlocutory Application has been filed by Mr. Arun Kapoor, the Resolution Professional of Gorgeous Skin Private Limited (the Corporate Debtor) under Section 54 of the Insolvency and Bankruptcy Code, 2016 (“The Code”) r/w Regulation 14 of Insolvency and Bankruptcy Board of India (Liquidation) Regulation, 2016 seeking dissolution of the Corporate Debtor.

Brief facts of the case are as under:

2. The Corporate Insolvency Resolution Process (“CIRP”) was ordered to be commenced on 11.11.2020 by the Tribunal on the basis of an Application filed by Trig Detective Private Limited, the Operational Creditor under Section 9 of the Code and Mr. Rajan Gargwas was appointed as Interim Resolution Professional (“IRP”).
3. Thereafter, the IRP issued Public announcement regarding commencement of CIRP process was made by way of an



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- advertisement via Form A in two local newspapers namely “The Financial Express” (in English) and “Pratakal” (in Marathi) on 14.11.2022 inviting claims from creditors of the Corporate Debtor.
4. The IRP constituted a Committee of Creditors (“CoC”) after collation of all claims received against the Corporate Debtor and determination of the financial position of the Corporate Debtor.
 5. Thereafter, the Application was filed by the Committee of Creditors through the Central Bank of India being the Sole Financial Creditors of Gorgeous Skin Private Limited (“Corporate Debtor”) seeking replacement of IRP and seeking confirmation of appointment of Arun Kapoor Garg as Resolution Professional (RP). The said appointment of Arun Kapoor Garg was approved by CoC with 100% majority vide Resolution dated 23.12.2022 and the same was allowed by the Hon’ble Tribunal vide order dated 20.02.2023.
 6. Thereafter, the Applicant after receiving documents from the IRP discovered that the Corporate Debtor had not filed any financial statements with RoC after 2013, as they were not conducting any business since 2013. Also, there were no assets left in the company. The Corporate Debtor did not have any immovable assets as per available financial records.
 7. Further In 4th CoC meeting dated 27th March, 2023 the agenda for appointment of registered valuers was rejected by the CoC as no valuation of assets of the Corporate Debtor could be conducted due to the financial condition of the Corporate Debtor. There was some equipment available as assets, which were 10 years old and not in



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possession of the Corporate Debtor due to the dispute with the Landlord of the premises being used by Corporate Debtor for running its business.

8. No data was available on assets and financial performance of the Corporate Debtor. It came to the knowledge via an email from the suspended director that there was an asset which was also taken by the landowner (property being rented). No proper information about the value of the said asset was available. Further, the IRP filed an Application before this Tribunal for the recovery of the said asset but this Tribunal vide order dated 20.02.2023 directed the IRP to pursue the Application before the appropriate forum.
9. As the value of the asset was not known and as the Corporate Debtor was out of business since 2013, there were no active bank accounts and also no information of the existence of any other assets of the Corporate Debtor was available.
10. The Applicant published the invitation for Expression of Interest (EoI). The publication of notification and advertisement in Form G was accordingly approved by the members of the CoC. Pursuant to the approval, Form G was published on 19.01.2023 in the newspapers namely, "The News Hub" and "Pratakal". Pursuant to the said publication, no EoI was received from any Prospective Resolution Applicant. Thereafter, the Form G was re-published in the newspapers namely, "The News Hub" on 15.02.2023 and "Pratakal" on 16.02.2023 but again no EoI was received.



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11. A claim submitted by SHAMK Mercantile Private Limited and Trig Detectives Private Limited was dismissed by the RP on the ground that their claim was not admissible pursuant to Regulation 12(2) of Insolvency and Bankruptcy Board of India as the 90 days for submission of claims ended on 9.02.2023.
12. In the 4th CoC meeting held on 27.3.2023, the Applicant apprised the CoC members that even after publishing the Form G for the second time, no EOI was received by the Applicant. The status of claims received is as follows: -

Sr. No.	Description	Creditor	Claim Amount	Admitted Amount
1	Central Bank of India	Secured Financial Creditor	33,43,56,135 /-	33,43,56,135/-
2	Income Tax Department	Operational Creditors (Government Dues)	4,45,25,230/-	4,45,25,230/-
3	SHAMK Mercantile Pvt. Ltd.	Operational Creditors (other than	10,39,92,293 /-	0
4	Trig Detective Pvt. Ltd.	Workmen, Employees and	20,41,307/-	0



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		Government t Due)		
		Total	48,49,14,965 /-	37,88,81,365/-

13. Furthermore, the Applicant has also submitted Form-H Compliance Certificate through Additional Affidavit dated 28.02.2024.

Findings

14. We have heard the Counsel appearing for the Applicant / RP and perused the Application.

15. Before considering the merits of case, it is necessary to refer relevant provisions and rules, of the IBC and the Rules made thereunder.

Section 33(2) of IBC reads

"Where the Resolution Professional, at any time during the Corporate Insolvency Resolution Process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the COC approved by not less than sixty-six percent of the voting share to liquidate the Corporate Debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)".



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Section 54 of the IBC reads

“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 sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall stand 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”.

Rule 14 of IBBI (Liquidation Process) Regulations, 2016 reads

“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”.

Rule 11 of NCLT Rules, 2016 confers inherent powers on NCLT, which reads as "Rule, 11- Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal".



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16. The ultimate goal of the Insolvency and Bankruptcy Code (IBC) is to either resolve the matter through a Resolution Plan or liquidate the Corporate Debtor as expeditiously as possible. In this case, it is clear that keeping the Corporate Debtor under the Corporate Insolvency Resolution Process (CIRP) or Liquidation proceedings will serve no purpose. The Company has not filed any financial statements or tax returns and has not been operating any business since 2013. Furthermore, the Company has neither any assets nor any active bank accounts. According to the Form-H Compliance Certificate, the estimated liquidation costs amount to Rs. 13,36,297/-. The Adjudicating Authority is vested with inherent powers under Rule 11 of NCLT Rules, 2016 conferred under the Act, to pass appropriate order(s) in the interests of speedy justice.
17. Considering the facts and circumstances, it is clear that placing the Corporate Debtor under Liquidation Process would only incur additional costs without yielding any fruitful result. The Committee of Creditors (COC), exercising their commercial judgment, has passed a resolution seeking the dissolution of the Corporate Debtor. This application is submitted by the Resolution Professional following the COC's directives.
18. In 4th meeting of the COC held on 27.03.2023, Resolution was passed to dissolve the Corporate Debtor with 100% voting share. The relevant extract of the 4th CoC meeting is reproduced as under:
- “RESOLVED THAT pursuant to sub-section (2) of Section 33 of the Insolvency and Bankruptcy Code, 2016, read with Regulation 40D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process*



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for Corporate Persons), Regulations, 2016, and other applicable provisions of Insolvency and Bankruptcy Code, 2016 and rules and regulations made thereunder, the approval of the Committee of Creditors of Gorgeous Skin Private Limited be and is hereby accorded for the liquidation and dissolution of the Corporate Debtor and also the decision of the Liquidation and dissolution is being considered based on the factors recorded as per the members of Committee of Creditors and submitted in the Application for liquidation and dissolution of the Corporate Debtor”.

19. It is also noticed that the coordinate benches of NCLT have, under special circumstances, passed orders for dissolution of the Corporate Debtor without undergoing the Liquidation process in the following cases:

Sr. No.	Particulars
1.	NCLT Bengaluru Bench order dated 16.11.2020 in the matter of Synew Steel C.P. (IB) No.96/BB/2020 & I.A No. 435/2020.
2.	NCLT Division Bench- II Chennai order dated 11.03.2022 in the matter of Aesys Technologies India Private Limited. IA(IBC)/978(CHE)/2021 in IBA/20/2020.
3.	NCLT Kochi Bench order dated 27.10.2022 in the matter of M/s. Ambani Vitrified Private Limited & Another v. M/s. Nassco Trading India Private Limited.



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	IA(IBC)/134/KOB/2021 in IBA/22/KOB/2020 & IBA/23/KOB/2020.
4.	NCLT Cuttack Bench order dated 10.01.2023 in the matter of Nisharani Mahapatra v. Lumex Resources Pvt. Ltd. IA.(IB)No.280/CB/2022 in CP(IB)No.180/CB/2020.
5.	NCLT Hyderabad Bench order dated 13.04.2023 in the matter of M/s. Platina Properties and Projects Limited v. M/s. Ogene Systems India Limited. I.A.No.520/2023 in C.P.(IB)No.114/7/HDB/2022.

20. In the above circumstances we are satisfied that this is a fit case for dissolving the Corporate Debtor without undergoing the liquidation process.

21. **IA No. 1945 of 2023** is allowed with the following orders:

- I. The Corporate Debtor, **Gorgeous Skin Pvt. Ltd**, is ordered to be dissolved with immediate effect.
- II. The Registry is directed to forward a copy of this order to the Registrar of Companies, Mumbai within seven days from the date of this order.
- III. The Resolution Professional is also directed to forward copies of this Order to all the Statutory Authorities including IBBI, connected with the affairs of the Corporate Debtor.



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- IV. Personal Liability/Guarantee of any Director/Promoter of the Corporate Debtor, if any, would not absolve them from their liability by virtue of this order.
- V. Resolution Professional shall stand discharged from his duties with effect from the date of this Order.

22. **IA No. 1945 of 2023** is hereby **allowed** and **disposed of** and **CP (IB) No. 3457/(MB)/2019** is hereby **closed**.

Sd/-

Sd/-

ANIL RAJ CHELLAN

KULDIP KUMAR KAREER

MEMBER (TECHNICAL)

MEMBER (JUDICIAL)