

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA (IB) No. 01/CB/2021
Connected with
CP (IB) No. 85/CTB/2019

In the Matter of:
INSOLVENCY AND BANKRUPTCY CODE, 2016;

In the Matter of:
An application under Section 54 of Insolvency and Bankruptcy Code, 2016 and
Regulation 45 of IBBI (Liquidation Process) Regulations, 2016;

-And-

In the Matter of:
Mr. Pankaj Khaitan, S/o Shri Vaid Prakash Khaitan, having office at K-37/A,
Basement, Kailash Colony, Near Kailash Colony Metro Station, Delhi-110048;

-And-

... .. Applicant/Liquidator

In the Matter of:
Punjab National Bank, BO: Durg, Station Road, Chattisgarh-491 001;

Financial Creditor/Applicant

-Versus-

Shiv Shankar Solvent Extractions Pvt. Ltd. having registered office at R-2, Vishal
Nagar, Green Paradise, Raipur – 492001.

Corporate Debtor/Respondent

CORAM: 1. Shri Rajsekhar V.K. Member (Judicial)
2. Shri Satya Ranjan Prasad, Member (Technical)

APPEARANCES:

Mr. Arbinda Acharya, CS, for the petitioner

Date of pronouncement of Order: 26.07.2021

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

ORDER

Per: Shri Satya Ranjan Prasad Member (Technical)

1. The Present Application has been filed by the liquidator, Mr Pankaj Khaitan, under Section 54 of the Insolvency and Bankruptcy Code, 2016 and Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 for dissolution of Corporate Debtor, Shiv Shankar Solvent Extractions (P) Ltd.
2. The Liquidator Submits that this Tribunal, *vide* its orders dated 4th September, 2019, had admitted the captioned Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, and Shri Pankaj Khetan (IBBI/IPA-002/IP-N00010/2016-17/10014) was appointed as Interim Resolution Professional (hereinafter referred to as “**IRP/RP**”) in the Insolvency Resolution process.
3. The Liquidator submits that IRP/RP published Form A in the newspapers on 06.09.2019 in accordance with Regulation 6 of the IBBI (Insolvency Resolution Process of Corporate Person) Regulation, 2016 and received, considered and admitted claims in accordance with the provisions of the Insolvency & Bankruptcy Code, 2016.
4. The Liquidator submits that IRP constituted COC on 25.09.2019 in accordance with Regulation 17 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 constituting only one member i.e., Punjab National Bank with 100% majority and convened first meeting of COC on 01.10.2019 wherein, *inter-alia*, the IRP was confirmed as Resolution Professional.
5. The Liquidator submits that in the First Meeting of CoC, the COC unanimously decided to liquidate the Corporate Debtor on the grounds that:
 - i) The brand name the Corporate Debtor would not be able to fetch any value;

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

-
- ii) It was not possible to sell the Corporate Debtor as a going concern or the business of the Corporate Debtor as a going concern and;
- iii) In view of inadequacy of the probable value of realization of assets of the Corporate Debtor to meet the CIRP cost, it did not seem feasible to incur further costs on its Resolution Process and authorized the RP to file Application for liquidation with Hon'ble NCLT. It was further resolved to appoint Mr. Pankaj Khaitan as Liquidator of the Corporate Debtor in liquidation process.
6. The Liquidator submits that the RP had earlier appointed two valuers for valuation of asset class land and building of the Corporate Debtor and the valuers submitted their valuation report dated 25.11.2019 and 27.11.2019 respectively.
7. The Liquidator submits that the RP filed the Application for Liquidation with the Cuttack Bench of NCLT dated 12.10.2019 and prayed to pass Liquidation order for Corporate Debtor and to appoint him as Liquidator and on 09.12.2019 the liquidation order was passed by this bench.
8. The Liquidator submits that the Form-B was published in accordance with Regulation 12 of IBBI (Liquidation Process) Regulation, 2016 on 11.12.2019 in the newspapers, Times of India (In English) and Raj Express (In Hindi) and the last date of submission of claim by stakeholders was 08.01.2020 and the Liquidator received one claim from the sole Financial Creditor, Punjab National Bank and the same was admitted by the Liquidator after due verification and on the basis of claims received, the Liquidator Constituted Stakeholder Consultation Committee (Hereinafter referred as SCC) on 09.01.2020 in accordance with Regulation 31A of IBBI (Liquidation Process) Regulation, 2016.
9. The Liquidator submits that a separate bank account was opened with Syndicate Bank (Canara Bank), Account Number 90351010009291, for Liquidation

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

purpose and used the bank account for depositing receiving and making payments in liquidation process.

10. The Liquidator convened the first meeting of SCC on 13.01.2020 in accordance with Regulation 31A (6) of IBBI (Liquidation Process) Regulation, 2016 for considering the public notice and e-tender document to be issued for sale/realization of assets of the Corporate Debtor. The Sale Notice was published in the newspapers on 24.01.2020 - in Times Nation (In English) and Lokmat Samachar (In Hindi) in accordance with Regulation 33 and schedule I of IBBI (Liquidation Process) Regulation, 2016 but auction failed.
11. On 05.03.2020, the Liquidator convened the second meeting of Stakeholders and discussed the further course of action in the matter and on 12.03.2020 published the second E- Auction Notice in Times of India (English), Hari Bhoomi and Lokmat Samachar (Hindi) with revised Reserve Price as decided in the Second Meeting of Stakeholders, but this time also auction failed.
12. On 19.05.2020, the Liquidator published the E- auction sale Notice in the Newspaper i.e., Business Standard (Hindi & English) and informed the same to the Punjab National Bank (Financial Creditor) and all the interest buyers. Further, the last date for submission of EMD and E-Auction was fixed for 25.05.2020 and 05.06.2020 respectively. That the Liquidator received calls from interested buyers and arranged for the visit of asset of Corporate Debtor but due to pandemic situation none of the interested buyers could visit the property.
13. The Liquidator submits that he made one more attempt to realize the Assets of Corporate Debtor through E- Auction and on 09.06.2020 the Liquidator published the E- auction sale Notice in the Newspaper i.e., Business Standard (Hindi & English) and informed the same to the Punjab National Bank (Financial Creditor) and all the interest buyers once again. Further, the last date for submission of EMD and E-Auction was fixed for 15.06.2020 and

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

26.06.2020 respectively but this time the auction again failed. But On 19.10.2020 the Liquidator realized the asset of Corporate Debtor through Private Sale to M/s. B M Infra for Rs. 7,32,00,000/- (Rupees Seven Crore Thirty-Two Lakhs Only) i.e., higher than the last e- auction price of Rs. 7,25,00,000/-. The Liquidator received the entire payment of sale Proceeds by 20.10.2020 and the Liquidator distributed the proceeds of realization on 22.10.2020 in accordance with Section 53 of the Insolvency and Bankruptcy Code, 2016 to the extent of the amount available.

14. The Liquidator submits that there was no asset left to be realized and with no funds available for distribution to any of the stakeholders/claimants, the liquidator closed the said bank account numbered 90351010009291 which was being used in liquidation process for receiving and payment of proceeds on 15.12.2020.
15. That the proceeds from the sale of assets have been distributed under section 53 of Insolvency and Bankruptcy Code, 2016 and a table showing CIRP / Liquidation cost and proceeds of sale to give complete details on this aspect is as follows:

TABLE-1

Corporate Insolvency Resolution Process Cost				
Sl No.	Particulars	Total Expenses	Paid	Outstanding
		Amount (Rs.)	Amount (Rs.)	Amount (Rs.)
A	Publication of Form A	20,160/-	20,160/-	0
B	Possession Charges	13,128	13,128	0
C	Public Search	100	100/-	0

Sd

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH**

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

Corporate Insolvency Resolution Process Cost				
D	Stationery, Postage & Courier	4,385/-	4,385/-	0
E	Legal Charges	1,00,000/-	1,00,000/-	0
F	NCLT Fee	1,100/-	1,100/-	0
G	Travelling Expenses	54,278/-	54,278/-	0
H	IRP/RP Fee	7,37,200/-	7,37,200/-	0
I	Fee of Valuers	34,810/-	34,810/-	0
J	Security Guard Charges	1,05,000/-	1,05,000/-	0
K	Misc. Expenses	249/-	249/-	0
	Total	10,70,410	10,70,410	0

TABLE-2

Liquidation Process Cost				
Sl No.	Particulars	Total Expenses	Paid	Outstanding
		Amount (Rs.)	Amount (Rs.)	Amount (Rs.)
A	Publication/Advertisement	2,50,370/-	2,50,370/-	0
B	E-auction charges	14,160/-	14,160/-	0
C	Travelling Expenses	1,03,945/-	1,03,945/-	0
D	Security Guard Expenses	4,07,109/-	4,07,109/-	0
E	Legal & other Professional fee	1,37,500/-	1,37,500/-	0
F	Bank Charges	1,584/-	1,584/-	0
G	Printing, Stationery and Courier Charges	8,784/-	8,784/-	0
H	Exemption and Dissolution Application Fee	1,00,000/-	1,00,000/-	0

Sd

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH**

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

Liquidation Process Cost				
I	Storages Charges and Rent for maintenance of records (eight years)	8,64,400/-	8,64,400/-	0
J	Audit fee (Receipt & Pay a/c)	25,000/-	25,000/-	0
	Total	19,12,852	19,12,852	0

TABLE-2

Sale proceeds under Liquidation				
Sl No.	Particulars	Total Expenses	Paid	Outstanding
		Amount (Rs.)	Amount (Rs.)	Amount (Rs.)
	RECEIPTS			
A	Opening Balance	0	0	0
B	Sale Proceeds	7,32,00,000/-	7,32,00,000/-	0
	TOTAL RECEIPTS	7,32,00,000/-	7,32,00,000/-	0

16. The Liquidator submits that he has prepared final report and compliance certificate in Form H stating the affairs of Liquidator in Liquidation process of corporate debtor in accordance with Regulation 45 IBBI (Liquidation Process) Regulations, 2016.
17. The Liquidator submits that in accordance with Sub-Regulation 5 of Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016, the Receipts and Payments of the Liquidator during the Liquidation Process have been duly audited by a Chartered Accountant and submitted along with the Progress Report for the fifth quarter separately.

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

18. The Liquidator submits that he has complied with all his statutory obligations to liquidate the Corporate Debtor and conducted all due diligence in liquidation process.
19. The Liquidator vide I.A. No. 279/2020 has sought the exemption from this bench for exclusion of Covid-19 period from the prescribed Liquidation period of one year and same was allowed vide order dated 26.11.2020.
20. The present application is filed under regulation 45 of IBBI (Liquidation Process) Regulations 2016, by the applicant which is reproduced hereunder:
- a) *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.*
 - b) *if the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report the liquidator shall explain the reasons for the same.*
 - c) *The Liquidator shall submit an application along with the final report and the compliance certificate in Form H to the Adjudicating Authority for –*
 - i) *Closure of the liquidation process of the corporate debtor where the corporate debtor is sold as going concern: or*
 - ii) *for the dissolution of the corporate debtor, in cases not covered under clause (a).}*
21. For the purpose of pronouncement of dissolution of a Corporate Debtor, Section 54 of the Code reads as under: -
- “54. (1) where the assets of the Corporate Debtor have been completely liquidated, the liquidator shall make an application to the Adjudication Authority for the dissolution of such Corporate Debtor.*
- (2) The Adjudication 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.*

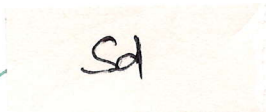
Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No. 01/CB/2021
c/w CP (IB) No. 85/CTB/2019
In re Shiv Shankar Solvent Extractions Pvt. Ltd

(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.”

22. In light of the above facts, it is observed that liquidator has completed the sale of Corporate Debtor through e –auction and distributed entire sale proceeds received from the sale amongst the creditors. Section 54 of the Insolvency & Bankruptcy Code read along with Regulation 45 of IBBI (Liquidation Process) Regulations, 2016, which says that the liquidator shall submit an application to NCLT for dissolution of the Corporate Debtor along with the final report and the compliance certificate in Form H to the Adjudicating Authority for closure of the liquidation process of the Corporate Debtor. Hence, liquidator has filed present application seeking dissolution of the Corporate Debtor.
23. Considering the facts on record and provision of law, we order that Corporate Debtor stands dissolved as prescribed u/s. 54 of The Insolvency & Bankruptcy Code,2016.
24. 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 and for updating the status of Corporate Debtor.
25. The Registry is hereby directed to communicate this Order to the petitioner and respondent. Let the certified copy of the Order be issued upon compliance with the requisite formalities



Satya Ranjan Prasad
Member (Technical)



Rajasekhar.V.K.
Member (Judicial)

Signed this, the 26th day of July, 2021.

Ravijeet_P.S.