

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

18. I.A. 1662/2022

IN

C.P.(IB)-1628(MB)/2017

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
SMT. ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **25.08.2022**

NAME OF THE PARTIES: Acasia Tele Services Pvt Ltd.

V/s.

Auspice Trading Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Anirtuth Purusothaman, counsel appearing for the Liquidator is present through virtual hearing.

I.A. 1662/2022

The above Interlocutory Application is filed for dissolution of the Corporate Debtor company.

Heard the counsel appearing for the Liquidator and the above Interlocutory Application No. **1662/2022 is allowed**. Detail order follow;

Sd/-

ANURADHA SANJAY BHATIA
Member (Technical)

SKS

Sd/-

H.V.SUBBA RAO
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 16/09/2022

P. S. Sonawane
Deputy Registrar
16/9/2022
National Company Law Tribunal Mumbai Bench
Government of India



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

**I.A. No. 1662 of 2022
In
C.P. No. 1628 of 2017**

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

In the matter of

M/s Acasia Tele Services Pvt Limited

.... *Operational Creditor*

vs.

Auspice Trading Private Limited.

.... *Corporate Debtor*

I. A. No. 1662 of 2022

Mr. Gaurav Sharma

.... Applicant/Liquidator

Order delivered on 25.08.2022

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. G. Aniruth Purusothaman, Advocate, Mr.
Gaurav Sharma, Liquidator

ORDER

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



2. The Adjudicating Authority vide its order dated 24.04.2018 on a Petition filed by the Financial Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Auspice Trading Private Limited., **wherein Mr. Gaurav Sharma**, was appointed as Interim Resolution Professional (IRP) and continued as Resolution Professional and Liquidator thereafter.
3. The Applicant states that an Order under Section 33(1)(a) was passed on 21.01.2019 and the Debtor Company was allowed to be 'Liquidated' under the provisions of The Insolvency and Bankruptcy Code, 2016 and Applicant was appointed as the Liquidator of the company vide order dated 21.01.2019.
4. The Applicant Submits that Auspice Trading Private limited is engaged in the business of Trading in Tele-Communication Equipment Peripherals & Accessories, Computer Software, Tower Steel Material and Networking Services.
5. In accordance with the Regulation 27 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, The Firm "M. Verma & Associates, Chartered Accountants" has been appointed as registered valuer by the Resolution Professional vide appointment letter dated 27th June 2018 to determine the fair value and the liquidation value of the corporate debtor (ATPL) in accordance with Regulation 35.
6. Applicant states that in the financial year 2010-11, the company had started trading business in telecom products. However, with the advancements in technology the market landscape for the telecom industry was completely altered and downfall started in the year 2012 due to changes in DOT rules and regulations which affected its suppliers being a huge service provider in telecom industry. New offers from other big players in the telecom sector further created



difficulties for the company to sustain in the telecom industry. The customers of the company delayed most of the projects which resulted in order cancellations. The advances received from customer were blocked with the suppliers which were not released, and refunds couldn't be made.

7. ATPL has been in financial crisis from the FY 2014-15 onwards due to cancellation of orders. The management had to take a tough call against the business activity which was totally stopped from 2014-15 and was in follow-up with the suppliers to refund the advances.
8. The Applicant submits that pursuant to the liquidation order, Liquidator made publication announcement informing the public at large about the initiation of the liquidation process against the corporate debtor and inviting claims from stakeholders, vide a public announcement dated 02.02.2019, in two newspapers of Mumbai Edition of Free Press Journal and Navshakti.
9. A copy of the Audited Financial Statement of the Corporate Debtor for the period ending 31st March 2017. A copy of the Audited Financial Statement Corporate Debtor for the period ending 31st March 2016 to 31st March 2017.
10. The Applicant states that M/s DARPN and Company, has been appointed by Resolution Professional vide appointment letter dated 28.08.2018 to carry out the Forensic Audit of M/s Auspice Trading Private Limited.
11. Pursuant to the public announcement, the Applicant received the claims from the various creditors of the Corporate Debtor. The last date for submission of claims being dated 02.03.2019.
12. The Applicant states that the assets of the Corporate debtor as per the liquidation estate read with the Asset Memorandum has been



sold and the amounts received has been distributed. The assets were assigned as per regulation 37A of IBBI (Liquidation Process) Regulations 2016.

13. Applicant states that The Asset Sale report prepared for the sale of the listed shares, in accordance with Regulation 36 of IBBI (Liquidation Process) Regulations 2016. Progress report for the quarter ended 31.03.2021 filed on 14.04.2021

S. N	Particulars	Remarks
1.	Details of the asset sold	25 shares of IDFC Ltd, 25 shares of IDFC First Bank Ltd., 18682 shares of GTL Ltd., 21385 shares of GTL Infrastructure Limited.
2.	Realized value	Rs. 1,42,936.26(net of charges & taxes)
3.	Cost of realization	Rs. 2,541.28(brokerage & taxes)
4.	Manner and mode of sale	Shares have been sold through stock exchange as per market price.
5.	If the value realized is less than the value in the asset memorandum, the reasons for the same.	Shares have been sold through stock exchange as per market price.
6.	Person to whom property is sold	Shares have been sold through stock exchange as per market price.
7.	Any other details related to sale	No

14. The Applicant states that from the receipts during liquidation period, Liquidator during liquidation period, distributed INR 86,01,522.60 to stakeholders, Further, as per Regulation 42(3) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016,



the Insolvency Resolution Process Costs, if any, and the Liquidation costs are deducted before such distribution is made.

15. The Applicant states that the bank account in Axis Bank Account no. 919020013404483, Samartheswar Temple, Ahmedabad branch closed on 11.03.2022, the GST registration, PAN and TAX is cancelled. The Applicant submits that it has completed the liquidation process of the Corporate Debtor and there are no further assets of the Corporate Debtor which remain to be liquidated.
16. The Liquidator after receiving the claim from the creditors had made the assessment and submitted Preliminary Report along with Assets memorandum to the Adjudicating authority on 06.03.2019. The Applicant has completed the distribution of assets as per the provisions of the Section 53 of the Code.
17. On careful perusal of the Application and the final 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.
18. That the applicant states that the final distribution of amount lying in the liquidation account was distributed according to the Section 53 of the Insolvency and Bankruptcy Code.
19. The Learned Liquidator filed final Progress Report dated 14.05.2022 of the Corporate Debtor under Regulation 45 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.

20. 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.”*

21. 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”. That the liquidator while preparing the Final progress report came to the conclusion that there being no assets realizable or saleable, it will only increase the cost of liquidation, can opt for “Dissolution”.

22. The Applicant/ Liquidator submits that the as per Regulation 13 of IBBI (Liquidation Process) Regulations, 2016, the Preliminary report and Asset Memorandum was filed on 11.04.2019 and the 1st progress report was filed on 11.04.2019, 2nd Progress report was filed on 10.07.2019. Thereafter, 3rd progress report was filed on 10.10.2019, 4th progress report filed on 08.01.2020, 5th progress report filed on 09.03.2020, 6th progress report filed on 12.10.2020, 7th progress report filed on 13.10.2020, 8th progress report filed on 13.10.2020. 9th



progress report filed on 12.01.2021 10th progress report filed on 14.04.2021.

23. 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.

24. In this connection it is also worth to refer Section 59, Sub-Section 7 of 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”.



25. 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.
26. 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.
27. 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.
28. Accordingly, IA No. 1662 of 2022 is hereby allowed and disposed off and CP No. 1628 of 2017 is hereby closed.

Sd/-

ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)

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On 16/09/2022


Deputy Registrar 16/9/2022
National Company Law Tribunal Mumbai Bench
Government of India

