

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

**IA (I.B.C)/ 240 (KB) 2022
IN
C.P. (IB) / 516 (KB) / 2018**

In the matter of

(An application under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)

In the matter of

Jai Balaji Industries Limited

... Operational Creditor

-Versus-

Bengal India Global Infrastructure Limited

... Corporate Debtor

AND

In the matter

Mr. Sanjay Kumar Agarwal, Liquidator for M/s Bengal Global Infrastructure Ltd. appointed under section 34(1) of the Insolvency and Bankruptcy Code, 2016.

... Applicant/Liquidator

Coram:

- 1. Shri Rohit Kapoor, Member (Judicial)**
- 2. Shri Harish Chander Suri, Member(Technical)**

**Date of Hearing : 06.05. 2022
Date of Order : 06.05.2022**

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Counsel/ Authorized Representative appeared through video conference:

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| 1.Mr. Mainak Bose, Adv. |] For Liquidator |
| 2.Mr. Arun Kumar Gupta, PCA. |] |
| 3.Ms. Anamika Gayan, Adv. |] |
| 4.Mr. Sanjay Kumar Agarwal, |] Liquidator in person |

ORDER

Per: Harish Chander Suri, Member (Technical)

1. Ld. Counsel for the Liquidator present.
2. IA (IBC) / 240 (KB) 2022 – This is an application filed by the Liquidator u/s 54 of the Insolvency and bankruptcy Code, 2018 read with regulation 45 of the IBBI (Liquidation Process) regulations, 2016 seeking an order of dissolution of the Corporate Debtor, now in Liquidation.
3. It is submitted that the Corporate Debtor was admitted to CIRP on October 11, 2018 in Company Petition No. 516 / KB /2018 appointing the applicant as Interim Resolution Professional and subsequently his appointment was confirmed as Resolution professional. At that time he had duly complied with all the provisions of the Code along with relevant rules and regulations and had filed Progress Reports from time to time.
4. It is submitted that the instant Interlocutory Application has been filed under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 by Sanjay Kumar Agarwal, Liquidator praying for dissolution of the Corporate Debtor- Bengal India Global Infrastructure Limited.
5. It is submitted that the Corporate Insolvency Resolution Process of the Corporate Debtor commenced by an order of this Adjudicating Authority dated 11th day of October, 2018 in Company Petition No. 516/KB/2018 and as no

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resolution plan came up during the CIRP period, I.A. No. 619 of 2019 was filed by the Resolution Professional under section 33 of the Insolvency and Bankruptcy Code, 2016 before this Adjudicating Authority seeking an order of liquidation of the Corporate Debtor and that this Adjudicating Authority passed an order on 17.05.2019 granting an order of Liquidation of the Corporate Debtor under Section 33(5) of Insolvency and Bankruptcy Code, 2016. Sanjay Kumar Agarwal, the applicant herein having Registration No. IBBI/IPA/IP-P00062/2017-18/10140 was appointed as the liquidator.

6. It is submitted that pursuant to the commencement of the liquidation proceedings against the Corporate Debtor, the liquidator has taken appropriate steps to facilitate the liquidation proceedings as per the Code and Regulations.
7. It is submitted that in term of Regulation 12(1) of the Liquidation Process Regulations, the Liquidator had issued public announcement on May 22, 2019 calling upon the stakeholders of the Corporate Debtor to submit proof of claims from Operational Creditors. All claims were thus verified and admitted by the Liquidator.
8. It is further submitted that two registered valuers namely (a) LSI Engineering & Consultants Ltd. and (b) Adroit Technical Services Ltd were appointed on 26.11.2018 to determine the Fair Market Value and the Liquidation Value of the Corporate Debtor. An average Liquidation Value of approximately Rs. 1.50 Lakh was determined which comprises of cash in hand and bank balance and the same has been fully utilised to meet CIRP and Liquidation costs. No fresh valuations were done during the Liquidation Process as the stakeholders decided not to go for fresh valuations as there has been only book debts and that too are proposed for assignment.

9. It is submitted that following had been filed by the Liquidator before this Adjudicating Authority in terms of the provisions of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016:
1. Quarterly Progress Report
 2. List of Stakeholders
 3. Preliminary Report
 4. Asset Memorandum
10. It is submitted that the Corporate Debtor does not have any immovable property for sale and recovery. The only realisable assets found during the Liquidation process are book debts / receivables. Since the commencement of liquidation process the liquidator has taken all possible steps for realisation of these book debts. However, no recovery could be made from the book debts during the entire liquidation process. The COVID-19 Pandemic and Lockdown caused hindrances in the process of recovery of the book debts. Further, it is stated that, as there has not been any cash flow in the company and the stakeholders were not willing to contribute towards liquidation costs, liquidator could not take expeditious steps towards realisation from the book debts of the corporate debtor.
11. Liquidator proposed for audit analysis of book debts for a period of 12 years and also asset searching of debtor companies and their directors in the 10th stakeholder committee meeting held on 08.03.2021. However, the stakeholders did not approve the same as it involved substantial costs.
12. Further the entire receivables have been more than 7 – 8 years old and most of the companies are either under CIRP or Liquidation.
13. It is submitted that as the due date for completion of Liquidation Process was coming to an end, Liquidator proposed for assignment of book debts as part of ‘Not Readily Realizable Assets’ (NRRA) under Regulation 37A of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Fourth

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Amendment) Regulations, 2020 which was approved by the stakeholders through voting with stakeholders having 70.18% of voting share voted in favour of the resolution in the 11th Stakeholder Committee Meeting held on 16.07.2021.

14. It is submitted that Public announcement inviting Expression of Interest from interested parties for assignment of NRRA comprising of book debts of the Corporate Debtor was published on 08.11.2021 in Business Standard in English and AAJKAL in Bengali.
15. It is stated that pursuant to the issue of public announcement Bids were received from M/s VRSA Consultancy LLP, New Delhi and M/s MFPL Commercial Private Limited, Kolkata. Both the bids were placed for voting in the 19th Stakeholder Committee Meeting held on 20.01.2022 and MFPL Commercial P Ltd was declared as successful bidder with 100 % votes in favour of the Bid by stakeholders present and voting in the meeting.
16. Upfront payment has been received from the successful bidder and was distributed in terms of Section 53 of the Insolvency and Bankruptcy Code, 2016.
17. It is submitted that the Deed of Assignment was executed between the Applicant as Assignor and M/s MFPL Commercial P Ltd as Assignee on 18th February, 2022 assigning the book debts of the Corporate Debtor in favour of MFPL Commercial P Ltd. The Deed of Assignment was duly presented before the stakeholders in the 21st Stakeholder Committee Meeting held on 17th February, 2022 and approved.
18. It is submitted that in terms of IBC Code and Regulations, the Liquidator has prepared the Final Progress Report along with Audited Statement of Receipt and Payment for the period 01.04.2021 till 24.02.2022 and annexed with this application.

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19. Compliance Certificate in Form H of the Schedule as laid down under Regulation 45(3) of The Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 is also annexed with the application.
20. In terms of Regulation 41 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator opened Bank Accounts of the corporate debtor in Yes Bank and Central Bank of India, which have now been closed.

“That the liquidator states that as required the liquidator has taken appropriate steps to facilitate the liquidation proceedings as per the Code and Regulations. Liquidator further mentioned that there have not been cash flows in the corporate debtor and all the expenses incurred during the process were to be contributed by the stakeholders. As on date there is no asset in the company for recovery, no securities for sell. Also, the stakeholders were not in favour of contributing towards costs incurred during Liquidation process as they were not expecting any recovery from the assets of Corporate Debtor. The Liquidator was even unable to make payment of legal counsel and fees for the advocates. Liquidator has to face a very tough time in handling the entire process of Liquidation due to cash flows, COVID Pandemic etc. Still the Liquidator tried his best to complete the liquidation process and get some recovery from the assets of the corporate debtor”.

21. The Statements of assets and liabilities have been filed by the Liquidator and also filed Final Report in compliance with the Regulation 45 of the IBBI (Liquidation Process) Regulations, 2016 including the fees and payments. There are no realisable assets of the Corporate Debtor, as such nothing could be realised. The compliance certificate in Form – H has also been filed by the Liquidator.
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22. In view of the aforesaid facts and circumstances mentioned above, and after hearing learned counsel for the Liquidator, the Corporate Debtor, is hereby ordered to be dissolved. A copy of this Order be sent to the Registrar of Companies, West Bengal.
23. With these directions, I.A. (IBC)/ 240 (KB)/ 2022 stands disposed of. Consequently C.P (IB)/ 516 (KB) 2018 is also disposed of.
24. The Corporate Debtor, M/s Bengal India Global Infrastructure Limited stands dissolved from the date of this Order and The Liquidator shall stand discharged of his role with effect from the date of this Order.
25. Certified Copy of the Order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Order signed on this the 6th day of May, 2022

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