

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 2,
MUMBAI BENCH

Item No. 30

Interlocutory Application (IBC)(Liq.)/72/2024 IN C.P. (IB)/1137(MB)2019

CORAM:

SH. SANJIV DUTT

SH. ASHISH KALIA

HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON 01.05.2025

NAME OF THE PARTIES: **MRS. BHARATI DAGA IN THE MATTER
OF PSV Consultants Vs Smart I Security &
Automation Pvt. Ltd**

Section 33(1) (b) (i) to (iii) r/w Sec 33(3) & 9 of the Insolvency and
Bankruptcy Code, 2016

ORDER

Interlocutory Application (IBC)(Liq.)/72/2024 IN C.P. (IB)/1137(MB)2019

- 1) Ms. Raina Birla, Ld. Counsel for the Applicant/Resolution Professional is present.
- 2) This is an Interlocutory Application filed by the Applicant/Resolution Professional of the Corporate Applicant under Section 33 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating Liquidation Process in the case of **Smart I Security & Automation Pvt. Ltd** (Corporate Debtor).
- 3) The facts leading to the case in hand are as follows:
 - a. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Tribunal *vide* order dated **18.08.2023** upon admission of a Company Petition under Section 9 of the

Insolvency and Bankruptcy Code, 2016 (the Code) and Mr. Ajay Gupta, was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor. However, Mr. Ajay Gupta, has not accepted the said appointment due to some personal difficulty, hence, this Bench vide its order dated 04.12.2023 had appointed the Applicant Mrs. Bharati Daga bearing registration no. IBBI/IPA-001/IP-P01 963/2020-21/13070, as the IRP of the Corporate Debtor, who subsequently has been confirmed as the Resolution Professional of the Corporate Debtor, upon the Resolution passed by the Committee of Creditors in their First Meeting held on 02.01.2023.

- b. Pursuant to the Admission Order, the Resolution Professional published Form - A in Free Press journal and Navkal on 12.12.2023 inviting claims against the Corporate Debtor. It has been stated that the Resolution Professional has received Three Claims from Operational Creditor, One Claim from the category of Operational Creditors other than Workmen and Employees and Government Dues and Two claims from Operational Creditor (Government Dues).
- c. It is further stated that the Resolution Professional has learned that the business of the Corporate Debtor is not in operation, after receiving documents from the Suspended Board. Further, as per the last balance sheet of F.Y. 2020-2021 available with the Applicant, there are no

assets that can be sold, there were no recoverable debts, the balance sheet shows cash balance in hand of Rs. 959/-, bank deposit of Rs. 9,03,639/- and current account balance of Rs. 91,128/- and Advance payment of tax of Rs. 1,80,040/-. The Applicant has also learnt that the VAT Department had attached the bank accounts associated with the Corporate Debtor.

- d. Resolution Professional proposed names of Valuers for the Valuation of assets of the Corporate Debtor. After discussion Vaishali Patnakar and Harshad Deshpande, were appointed as Valuers.
- e. It has been further stated that the Resolution Professional has conducted 5th Committee of Creditors (COC) meeting on 24.05.2024, wherein all the discussions held/agenda's that were put forth were again put for approval before the COC members, so there can be some progress in the matter but all the agendas for approval of appointment of Transaction Auditor, appointment of statutory auditor were rejected. Thereafter, RP put forth for discussion for initiating Dissolution of the Corporate Debtor or for Liquidating Corporate Debtor or for applying for extension since the CIRP period was about to expire.
- f. The Resolution Professional further informed the COC members that she was of the opinion to file for dissolution and Winding up of the

Corporate Debtor simultaneously, since the corporate debtor does not hold any valuable assets except the cash balance, no useful purpose would be served, by placing the corporate debtor under Liquidation process under the provisions of the code. It implies that since there is only cash balance and no assets in the company it would be pertinent to dissolve the company and not go for Liquidation route as it will only deplete the cash reserves of the company.

- 4) The members of COC in their 5th Meeting held on 24.05.2024, decided to initiate Liquidation proceedings against the Corporate Debtor as per Section 33(2) of the Insolvency and Bankruptcy Code, 2016, with 99.64% instead of going directly for dissolution and passed the necessary Resolution after placing the same for voting, the relevant extract of the said Resolution is reproduced herein below for convenience: -

“RESOLVED THAT Resolved that the Company be now Liquidated”.

- 5) It is submitted that no Form G was published and the COC Members are not interested to continue with the Resolution Professional of the Corporate Debtor.
- 6) It is also submitted that COC members have not suggested name of the Insolvency Professional to be appointed as the Liquidator of the Corporate Debtor and therefore prays that any Insolvency Professional be appointed to

act as the Liquidator of the Corporate Debtor from the Panel of Insolvency and Bankruptcy Board of India.

- 7) Hence, the present Interlocutory Application has been filed seeking Liquidation of the Corporate Debtor.
- 8) Having considered the submissions of the Counsel for the Applicant, upon perusal of averments made in the Application and in view of the decision taken by the Committee of Creditors, we consider it appropriate to pass the Order for Liquidation of the **Corporate Debtor viz. Smart I Security & Automation Pvt. Ltd** considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor.
- 9) This Bench is obligated to pass an order of Liquidation of the Corporate Debtor, since no Resolution Plan has been received by under Section 30(6) of the Code under section 33 of the Code. Accordingly, this Authority is left with no option except to pass an order for liquidation of the Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration.
- 10) Hence ordered.

ORDER

- a) The Application be and the same is allowed. The Corporate Debtor, **Smart I Security & Automation Pvt. Ltd**, shall be Liquidated in the manner as laid down in Chapter-III of the Code.

- b) **Ms. Rekha Kantilal Shah, Insolvency Professional having IBBI Registration No. IBBI/IPA-001/IP-P00776/2017-2018/11349 is appointed as Liquidator of Smart I Security & Automation Pvt. Ltd.**
- c) **That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process Regulations), 2016.**
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Applicant is in Liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Applicant. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Applicant shall cease to have effect and shall be vested in the Liquidator.
- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Applicant shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Applicant, except when the business of the Corporate Applicant is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- m) The Liquidator is hereby Authorized to represent the Corporate Applicant before the Government Authorities, if need be.
- n) Registry shall furnish a copy of this Order to the **Insolvency and Bankruptcy Board of India, New Delhi; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra; the Registered**

Office of the Corporate Applicant; and the Liquidator, Ms. Rekha Kantilal Shah, having address **201 Leela Apartment, JK Paradise & Rajanand Complex, Off Eksar Road, Near MCF Jogger's Park ,Borivali (West), Mumbai City, Maharashtra, 400 092**, having E-mail ID iprekhashah@gmail.com, having Contact Number **9869284749**.

- 11) **Needless to say, Committee of Creditors shall ratify and clear the fees of the erstwhile Resolution Professional of the Corporate Debtor, if any, due and payable.** Further, this Bench directs the erstwhile Resolution Professional to handover all the assets, effects, records, documents, whatever available with them in the Physical or Elector format, to the Liquidator of the Corporate Debtor, forthwith.
- 12) With the aforesaid observations and directions, the Interlocutory Application bearing **IA (Liq.) No. 72 of 2024**, stands disposed of as Allowed.
- 13) Ordered Accordingly.

Sd/-

SANJIV DUTT
MEMBER (TECHNICAL)

Vedant Kedare

Sd/-

ASHISH KALIA
MEMBER (JUDICIAL)