

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **26.04.2024** THROUGH VIDEO CONFERENCE

PRESENT: HON'BLE SHRI SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : Syndicate Bank
Vs
Akshaya ImaginG Systems Pvt Ltd

MAIN PETITION NUMBER : CP/431/IB/2018

(IA/MA) APPLICATION NUMBERS

IA/59(CHE)/2021; IA/1319/IB/2020; IA/1321/IB/2020
IA/1322/IB/2020; IA/1324/IB/2020; IA/1325/IB/2020
IA/1326/IB/2020; IA/1327/IB/2020

ORDER

IA/59(CHE)/2021:

Present : Mr. Badrinarayanan, Ld. Counsel for Liquidator.

Vide separate order pronounced in the open court, the application is allowed.

The Corporate Debtor Akshya Imaging Systems Pvt. Ltd is dissolved. The Liquidator is directed to forward the copy of the order to the RoC concerned and also to the IBBI for its records within a period of 7 days from the date of the order.

The main petition CP/431/IB/2018 also stands disposed of.

Main petition and the application are consigned to records.

-sd-

**[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)**

MS

-sd-

**[SANJIV JAIN]
MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IA (IBC)/59(CHE)/2021 in CP/431/IB/2018

(Filed under Section 54 of the Insolvency and Bankruptcy Code, 2016)

In the matter of Akshaya Imaging Systems Private Limited

Varadachari Kumar

Liquidator of Akshaya Imaging Systems Private Limited

No.7, Ramanujar Street,

Behind Indian Bank, Chitalapakkam,

Chennai – 600 064

... Applicant

Order Pronounced on 26th April 2024

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant: S. Sathiyarayanan, Advocate

ORDER

(Hearing Conducted through VC)

This Application has been filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 by the liquidator of the Corporate Debtor herein seeking for an order for Dissolution of the Corporate Debtor viz., **AKSHAYA IMAGING SYSTEMS PRIVATE LIMITED**. The relief sought by the Applicant is as follows;

a) dissolving the Corporate Debtor i.e. Akshaya Imaging Systems P Ltd under Section 54(2) of the IBC;

b) Order treating the unclaimed liabilities and balances in admitted claims after distribution under section 53 as NIL and closed;

c) Declare that the sole secured financial creditor (Canara Bank, SAM Branch, Mount Road, Chennai) shall be entitled to Rs 1,61,55,973.38 from and out of the avoidance Applications as and when orders by this Hon'ble Tribunal and consequently, direct the sole secured financial creditor (Canara Bank) to prosecute the Avoidance Applications till its disposal;

d) To pass such other orders as the Hon'ble Tribunal may deem fit and expedient under the circumstances of the case and thus render Justice

2. It is stated that CIRP of the Corporate Debtor was initiated by this Tribunal vide order dated 31.05.2018 and the Applicant herein was appointed as Interim Resolution Professional (IRP) and thereafter as Resolution Professional (RP).

3. It is stated that the Liquidation of the Corporate Debtor was ordered by this Tribunal on 07.08.2018 in MA/286/2018 and the Applicant herein was appointed as the Liquidator.

4. It is stated that the manufacturing activities of the company ceased somewhere in the third quarter of FY 2017-18 and at the time of commencement of liquidation there was neither any activity nor any employees in the Corporate Debtor and it remained as a closed unit.

5. It is stated that the sole Financial creditor the then Syndicate Bank presently Canara Bank had relinquished its security interest in the secured properties on 06.09.2019 and opted to receive proceeds through sale of assets by the Liquidator.

6. It is stated that the Applicant published the public announcement in Form B on 12.08.2018 in two daily newspapers under Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, inviting proof of claims from all stakeholders. It is stated that in compliance with Regulation 31 of the IBBI (Liquidation Process) Regulations, 2016 a category wise list of stakeholders along with the details of each stakeholder, was prepared and filed before this Tribunal on 05.10.2018.

7. It is stated that a Bank Account in the name of 'Akshaya Imaging Systems P Ltd - In liquidation' bearing Account No 60021010009762 was opened on 14.08.2018 with Syndicate Bank, Mount Road Branch, Chennai and all the receipts and payments of the Corporate debtor under liquidation have been routed through this account.

8. It is stated that the as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016, the Applicant prepared and filed 1st progress report dated 05.10.2018 and a Preliminary Report within 75 days before this Tribunal on 05.10.2018. It is stated that the Asset Memorandum was filed before this Tribunal on 05.10.2018.

9. It is stated that based on the Reports submitted by the Registered Valuers, in accordance with Regulation 35 of the IBBI (Liquidation Process) Regulations, 2016 the Liquidation value was arrived as under;

SL. No.	ITEM	VALUER I (IN RS.)	VALUER II (IN RS.)	AVERAGE LIQUIDATION VALUE ARRIVED AS PER RULE 35 (4) OF REGULATIONS
1	Plant & Machinery	1,85,00,000	1,91,02,000	1,88,01,000
2	Swift Car	3,50,000	2,80,000	3,15,000
3	Tata Nano	1,10,000	63,000	86,500
4	Factory Land Building and shed	4,27,80,000	3,78,00,000	4,02,90,000
	TOTAL	6,17,40,000	5,72,45,000	5,94,92,500

10. It is stated that further, a land parcel of 7.5 cents owned by the erstwhile directors which was neither mortgaged to the financial creditor nor leased to the company, adjoining the main land mortgaged to the Financial Creditor, and was in use by the Corporate Debtor. This parcel of land was also valued by both the above valuers and the average liquidation value for this land of 7.5 cents was arrived at as Rs.3,97,500/-.

11. It is stated that even though the unaudited balance sheet handed over to the liquidator by the erstwhile Directors, reflects a liability of Rs.22,31,33,711.61 as on 31.03.2018, but the Applicant received claims from only four persons amounting to only Rs.14,30,56,551.77. They have been processed, admitted as per Rules and Regulations under IBC 2016 for the liquidation process, and list of stakeholders have been made public.

12. It is stated that the assets of the Corporate Debtor forming part of the liquidation estate were sold in the auction, duly complying with the provisions of IBC, 2016 and the regulations framed thereunder. The details of which are as under;

Sl No	Details of asset	Liquidation value arrived at as per regulation 35	Amount realised (in Rs)	Realisation % to the liquidation value as per regulation 35
1	Car Swift Dzire	3,15,000.00	4,50,000.00	142.86
2	Car Nano	86,500.00	1,00,000.00	115.61
3	Land of 2.93 acres, structures thereon, Plant & machinery	5,90,91,000.00	5,61,00,000.00	94.94
4	Land (Disclaimed) of 7.5 cents	3,97,500.00	8,00,000.00	201.26
	Total (1 to 4 above)	5,98,90,000.00	5,74,50,000.00	95.93
5	Trade Debtors	NA	70,667.00	

13. It is stated that an amount of Rs.6,20,48,097.09/- was realised from Liquidation process and out of this realisation, an amount of Rs.6,31,945/- was paid towards CIRP cost, Liquidation Cost (including Liquidator fees) of Rs.44,31,776.90 was absorbed and an amount of Rs.5,63,50,000/- was distributed to the sole Secured Financial Creditor.

It is stated that since the Secured Financial Creditor was not fully paid, the funds were insufficient to pay to the other claimants.

14. It is stated that the Applicant has also filed 8 Avoidance Applications in respect of Fraudulent / preferential transactions identified before this Tribunal.

15. It is submitted by the Learned Counsel for the Liquidator that suitable orders be passed that the amount decreed to be paid on account of the avoidance applications from the erstwhile directors, be paid directly to the sole financial creditor viz. Canara Bank since;

- a. The CIRP cost and Liquidation cost have been fully distributed / adjusted from the proceeds of the liquidation estate as per Section 53 of IBC, 2016.

- b. Claimants falling under priority under Section 53(1)(b)(i) being NIL.

16. The details of the relevant compliances as mandated under Section 54 of the IBC, 2016 read with the IBBI (Liquidation Process) Regulations, 2016 are listed hereunder:-

S No. (1)	Compliance (2)	(Yes / No) (3)	Reference & Page No. (4)
1.	(Regulation 12) <i>Public Announcement in Form B within five days of the appointment of the Liquidator.</i>	Yes	Page No.38-39 of the Application Book
2.	(Regulation 35(2)) <i>Appointment of Registered Valuers in matters where no valuation conducted during the CIRP.</i>	Yes	Para 5 of Page No.133 of the Application Book
3.	(Regulation 31(2)) <i>Filing the List of Stakeholders within forty-five days of LCD.</i>	Yes	Page No. 41-43 of the Application Book
4.	(Regulation 31A) <i>Constitution of SCC within sixty days from LCD.</i>	N/A	N/A
5.	(Regulation 13) <i>Filing 'Preliminary Report' before the Adjudicating Authority within seventy-five days from the LCD.</i>	Yes	Page No. 15-22 of the Present Additional Paperbook
6.	(Regulation 34) <i>Preparation of Asset Memorandum within seventy-five days from LCD.</i>	Yes	Page No. 44-51 of the Application Book
7.	(Regulation 41) <i>Opening of Bank Account in the name of the Company followed by the words 'in liquidation' in a Scheduled Bank.</i>	Yes	Page No. 22 of the Present Additional Paperbook
8.	<i>Proof of Closure of the above Bank Account and any other account in the name of the Company.</i>	Yes	Page No. 46 of the Present Additional Paperbook
9.	(Regulation 15) <i>Quarterly Progress Reports and proof of filing the same before the Adjudicating Authority.</i>	Yes	Page No. 13-14 of the Present Additional Paperbook
10.	(Regulation 36) <i>Asset Sale Report/ Auction Report after sale of Assets.</i>	Yes	Page No. 73, 84, 110-112 of the Application Book

11.	(Regulation 42(2)) <i>Proof of distribution within ninety days from the receipt of realization.</i>	Yes	S No. 32, Page No. 7 of the Present Additional Paperbook
12.	(Regulation 45(3)) <i>'Final Report' along with Compliance Certificate in Form H to be filed along the Application.</i>	Yes	Page No. 131-206 of the Application Book and Page No. 6-14 of the Present Additional Paperbook
13.	(Regulation 5(1)(e)) <i>(Compilation of the Minutes of SCC).</i>	N/A	N/A
14.	(Regulation 15) <i>Audited accounts of receipts and payments.</i>	Yes	Page No. 47-48 of the Present Additional Paperbook
15.	(Regulation 37) <i>Completion of liquidation process within one year from LCD or extension if any, date of the order & period.</i>	No	Page No. 49 of the Present Additional Paperbook
16.	<i>To furnish of details of any application pending before the Adjudicating Authority if any.</i>	No	N/A
17.	<i>Whether any application pending before this Tribunal in relation to the Corporate Debtor, if any. (Details to be furnished)</i>	Yes	Annexed to this Synopsis (Page No.4 of this Synopsis)

17. We have heard Ld. Counsel for the Applicant and perused the report and synopsis filed by the Liquidator.

18. It is stated in Form H that total of 8 applications were pending before this Tribunal for avoidance, Preferential, Undervalued or Fraudulent Transactions. However, this Tribunal vide its order dated 18.04.2024 allowed the Application filed by the Liquidator under Section 43 of IBC, 2016. The Applications filed under Section 66 of IBC, 2016 were disposed of by this Tribunal vide order dated 25.04.2024. Since we

are inclined to pass an order of dissolution of the Corporate Debtor, we direct the Respondents in IA/1320/IB/2020 (*Application filed under Section 43 of IBC, 2016, which was disposed of on 18.04.2024*) to pay the amount to the sole financial creditors viz. Canara Bank.

19. The liquidator has filed the synopsis showing the realization and the distribution which are reproduced as under:

18. REALISATION:

S. No.	Assets	Mode of Sale	Estimated Liquidation Value (Rs.)	Realisation Amount (Rs.)	Date of Transfer to Liquidation Account
(1)	(2)	(3)	(4)	(5)	(6)
1	Immovable Properties of Factory Land & Building situated at Survey No 244/1A, 244/2A, 244/4A, and 244/4A3, Pappankuppam Village, Gummidipooni Taluk, Thiruvallur Dist - 601201 along Plant & Machineries and other Movable Assets	Through e-auction	5,98,72,606 /-	5,74,50,000 /-	03.11.2018, 29.03.2019, 03.02.2020 and 29.07.2020

19. DISTRIBUTION:

Sl. No.	Stakeholders* under section 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a) CIRP Costs	6,31,945/-	6,31,945/-	6,31,945/-	100	
2	(a) Liquidation Costs	48,36,597.82/-	48,36,597.82/-	48,36,597.82/-	100	
3	(b)(i) Workmen	-	-	-	-	
4	(b)(ii) Secured Financial Creditor	14,21,66,547/-	14,21,66,547/-	5,65,64,924.27/-	39.79	
5	(c) wages and any unpaid dues owed to employees			-		
6	(d) Financial debts to Unsecured Creditor	8,89,977/-	8,89,977/-	-	0	
7	(e)(i) Statutory dues	-	-	-	-	-
8	(e) (ii) Debt owed to secured creditor	-	-	-	-	-
9	(f) Remaining dues	-	-	-	-	-
10	(g) Preference Shareholders	-	-	-	-	-
11	(h) Equity shareholders	-	-	-	-	-
TOTAL		14,81,20,245/-	14,81,20,245/-	6,20,33,467.09/-	41.88	

20. From the averments made in the Application along with the perusal of the final report and the Compliance Certificate filed in Form-

H by the Applicant, it is seen that the Corporate Debtor has been completely liquidated. In the circumstances as averred and as prayed for by the Applicant, an order for dissolution is required to be passed by this Tribunal under Section 54 of the IBC, 2016. Accordingly, we order for the dissolution of the Corporate Debtor viz., *Akshaya Imaging Systems Private Limited*. The Liquidator is directed to forward the copy of this Order to the RoC concerned and also to the IBBI for its records within a period of 7 days from the date of this Order.

21. In terms of the above, this IA(IBC)59/CHE/2021 stands **allowed** and the **CP/431/IB/2018** also stands **disposed of**. Files be consigned to records.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond