

*Through Videoconference*

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT No. – I

MA No. **1071** of 2018 in C.P. (IB) No. 249/MB/2017

**An Application under Section 54 of the Insolvency and Bankruptcy Code, 2016**

Uday Vinodchandra Shah,  
Liquidator for  
Swift Shipping and Freight Logistics Private Limited,  
Block 10b, Jaybandhu 90 Feet Road,  
Garodia Nagar, Ghatkopar (E) Mumbai 400077 ...Applicant

*In the matter of*  
Swift Shipping and Freight Logistics Private Limited ...Corporate Debtor

Date of Order: 16.12.2021

CORAM:

Justice Pradeep Narhari Deshmukh, Hon'ble Member (Judicial)  
Sh Kapal Kumar Vohra, Hon'ble Member (Technical)

*APPEARANCE:*

For the Applicant: Karthik Somasundram, Amogh Joshi, Alabh Lal, i/b Bharucha & Partners

**ORDER**

*Per: Sh Kapal Kumar Vohra, Member (Technical)*

1. This is an Application by the Liquidator of Swift Shipping and Freight Logistics Private Limited (Corporate Debtor) under Sections 54 of the Insolvency & Bankruptcy Code, 2016 (the Code) seeking dissolution of the Corporate Debtor (CD).
2. The Company Petition [CP (IB) 249/MB/2017] filed under Section 10 of the Code seeking Corporate Insolvency Resolution Process (CIRP) of the CD was admitted by this Tribunal on 19.04.2017, wherein Applicant was appointed as the Interim Resolution Professional (IRP).
3. The Applicant submits that thereafter he made a public announcement on 29.04.2017 in two newspapers in accordance with the Regulation 6 of the

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 inviting creditors of the CD to submit their claims up to 11.05.2017. However, no one came forward with claims and no responses were received even after IRP issued separate notices to those creditors whose names appeared in the Books i.e HDFC Bank and Standard Chartered Bank.

4. The Applicant submits that since no claim has come from any of those two creditors, he could not constitute Committee of Creditors (CoC) as required by Section 21 of the Code. IRP continues to discharge the role of RP as no regular RP was appointed in the absence of constitution of CoC. Applicant further submits that there being no CoC and the statutory period of 180 days of CIRP has been completed on 16.10.2017, he filed an Application bearing No. 519 of 2017 under Section 33(1)(a) of the Code for liquidation of the CD. The same was allowed by this Tribunal on 10.11.2017, wherein Applicant was appointed as the Liquidator to carry out the liquidation process. The status of the CD has since been changed to one 'under liquidation' as per Section 33 the Code.
5. The Applicant as a liquidator of the CD, published 'Form B' [in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (the Regulations)] on 01.12.2017 for getting claims from the stakeholders. Further, Applicant submitted that he made a public announcement in view of Regulation 31(2) of the Regulations on 24.02.2018 stating the list of stakeholders whose claims are accepted by him. Applicant also submits that as a liquidator, he received only one claim from Income Tax Officer for an amount of Rs. 9,27,88,156.
6. The Applicant submitted that as per the Regulation 31A of the Regulations, the liquidator is required to constitute a Stakeholders Consultation Committee (SCC) within 60 days from the date of the commencement of the Liquidation. Thereafter, the Liquidator conducted meeting of SCC with Income Tax Officer and explained him the procedure. The Liquidator intimated him about the Assets of the company and explained the amounts to be realised by the Income Tax Department.

7. The Applicant prepared and submitted the Assets Memorandum and Preliminary Report as per Regulation 34 and 13 respectively of the Regulations on 12.01.2018. As there are no Assets to be sold and realized, the sale Assets Report was not prepared. Further, Applicant submitted the quarterly Progress Reports on 12.01.2018, 16.04.2018, 16.07.2018 and 03.10.2018.
8. The Applicant, thereafter, closed old bank account and prepared new Liquidation Account with Kotak Mahindra Bank, Ghatkopar (E) Branch on 23.02.2018. The Liquidator paid the proceeds realised from the old bank account amounting to Rs. 38,32,966 to the Income Tax Department against the claims filed by them.
9. The Applicant further states that all the Assets of the company have been liquidated and even though there are certain outstanding dues payable to Income Tax Authorities, the Company despite realising the amounts from its Assets does not have the required surplus to pay these dues. The Applicant has made communications regarding the payment of Income Tax dues with the concerned Income Tax officer vide email dated 08.09.2018.
10. Thus, the Applicant has filed present Application for dissolution of the CD as all the Assets are liquidated and Applicant distributed the proceeds from the realization of liquidation estate of the Assets of the Company. The Applicant submitted the Final Report on 07.09.2018. Thereafter, it was noted that the compliance of Regulation 45(3) of the Regulations was not complete, and this bench directed Applicant to file additional Affidavit. Accordingly, Applicant filed an affidavit on 03.12.2021 enclosing the compliance Certificate in the Form H.
11. The relevant provision for the purpose of dissolution of a CD is Section 54 of the Code. It 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.”*

12. On examining the submissions made by the Counsel appearing for the Applicant and the documents annexed to the Application, all the Assets are liquidated and proceeds from realisation of Assets are distributed to stakeholders. The liquidation process has been duly completed as per the provisions of the Code. From the facts narrated above and the law on the subject, it would be just and equitable to dissolve the CD. In view of the above, the CD deserves to be dissolved. Hence ordered.

### **ORDER**

The Application be and the same is **allowed**. It is hereby ordered as follows.

- i. Swift Shipping and Freight Logistics Private Limited, the CD, is hereby dissolved with immediate effect;
- ii. The Registry is directed to forward a certified copy of this order to the Registrar of Companies, Mumbai within a period of seven days;
- iii. The Liquidator is discharged. CP (IB) 249/MB/2017 **stands closed**.

**Sd/-**

**Kapal Kumar Vohra**

Member (Technical)

**Sd/-**

**Justice Pradeep Narhari Deshmukh**

Member (Judicial)