



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -II)
KOLKATA**

**IA(IBC)/1854(KB)2023
in
CP(IB)/1306(KB)2018**

*Under section 60(5) of the Insolvency & Bankruptcy Code, 2016
read with rule 11 of the National Company Law Tribunal Rules, 2016
and regulation 21A of the IBBI (Liquidation Process) Regulations, 2016*

In the matter of:

K. B. Polychem (India) Ltd.

...Operational Creditor

-Versus-

Kaygee Shoetech Private Limited

...Corporate Debtor

And

In the matter of:

Axis Bank Limited

...Applicant

-Versus-

Pankaj Kumar Kedia,
Liquidator of Kaygee Shoetech Private Limited

...Respondent

Order reserved on: 10/11/2023

Order pronounced on: 29/11/2023

Coram:

Smt. Bidisha Banerjee

: Member (Judicial)

Shri Arvind Devanathan

: Member (Technical)

Appearances (through hybrid mode):

For applicant

:

Mr. Vikram Wadehra, Adv.
Ms. Aasia Hasan, Adv.

For Liquidator

:


Mr. Udit Agarwal, Adv.
Mr. Rahul Parasrampurua, PCS
Mr. Pankaj Kumar Kedia, Liq. in person



ORDER

Per: Arvind Devanathan, Member (Technical)

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/1854(KB)2023** is an application filed under section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called the “**IBC**”) read with rule 11 of the National Company Law Tribunal Rules, 2016 and regulation 21A of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter called the “**Liquidation Process Regulations**”) by Axis Bank Limited, the applicant against Mr. Pankaj Kumar Kedia, the Liquidator of **Kaygee Shoetech Private Limited**, the Corporate Debtor, praying for permitting the applicant to enforce its security interest under the SARFAESI Act, 2002 within 25 days from the date of the order.
3. **Brief Facts of the Case:**
 - (a) This application has been preferred by the Axis Bank Limited, the sole secured Financial Creditor (hereinafter called the “Financial Creditor” or “FC”) of the Corporate Debtor. The Corporate Debtor was ordered for liquidation by this Adjudicating Authority on 25/10/2021. Thereafter, the applicant filed its claims with the Liquidator to convey that it will not relinquish its security interest on the assets of the Corporate Debtor, consequent to which the Liquidator handed over physical possession on 01/03/2022.
 - (b) Ld. Counsel for the applicant submits that the applicant thereafter made attempt to sale all the assets and published notice for e-auction on 18/06/2022, 16/11/2022, 23/12/2022, 28/02/2023, 08/04/2023, 27/05/2023, 16/06/2023 and 21/09/2023. On 16/10/2023, the applicant received expression of interest for purchase of one of the immovable assets. The purchaser has even issued a Demand Draft dated 16/10/2023 for a sum of Rs.23,10,000/- in favour of the applicant. Therefore, the applicant is praying for enforcing its security interest under the SARFAESI Act, 2002 and for passing appropriate orders.



(c) Ld. Counsel for the Liquidator opposed the plea of the applicant by stating that this Adjudicating Authority has already passed an order in IA(IBC)/869(KB)2022 directing the applicant to hand over the assets back to the Liquidator.

4. **Analysis and Findings**

(a) We find that in IA(IBC)/869(KB)2022 which was filed for handing over assets of the Corporate Debtor by the Axis Bank Limited, the Financial Creditor in terms of sub-section (3) of section 21A of IBBI (Liquidation Process) Regulations, 2016 has been disposed by this Adjudicating Authority on 17/11/2023 wherein the Liquidator was allowed to take possession of the assets back forming part of the security interest from the respondent Axis Bank.

(b) In the said order dated 17/11/2023, it was directed to handover to the applicant, possession of the assets in question immediately within 3 days from the receipt of a copy of the said order.

5. In view of the above order dated 17/11/2023 of this Adjudicating Authority, this application has become infructuous and accordingly dismissed.
6. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
7. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Arvind Devanathan
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 29th day of November, 2023.

hb.