**THE NATIONAL COMPANY LAW TRIBUNAL**
**CHANDIGARH BENCH, CHANDIGARH**
**(through web-based video conferencing platform)**

**IA No.741/2020**
**In**
**CP (IB) No.41/Chd/Pb/2018**
**(admitted matter)**

**Under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 38(1) of IBBI (Liquidation Process) Regulations, 2016**

**In the matter of :**

Oriental Bank of Commerce
(Now Punjab National Bank) …Financial Creditor

Versus

Sadhbhawan Impex Private Limited …Corporate Debtor

And in the matter of: -
**IA No.741/2020**
Mr. Sanjay Kumar Aggarwal, Liquidator
of Sadhbhawan Impex Private Limited
Reg. No. IBBI/IPA-002/N-00126/2017-18/10295
Registered address with IBBI
14, New Punjab Mata Nagar, Main Street,
Pakhowal Road, Ludhiana, Punjab – 141013 …Applicant/Liquidator

**Judgment delivered on: 30.11.2021**

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)**
**HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present through Video Conferencing : -**

For the Applicant: 1. Mr. Ashok Kumar Gupta, Practising Company Secretary

2. Mr. Sanjay Kumar Aggarwal, Liquidator

**Per: Subrata Kumar Dash, Member (Technical)**

## JUDGMENT

IA No.741/2020 in CP (IB) No.41/Chd/Pb/2018 is filed by Mr. Sanjay Kumar Aggarwal (hereinafter referred to as 'Applicant/Liquidator') of M/s Sadhbhawana Impex Private Limited ('Respondent/Corporate Debtor) under Section 54 of the IBC, 2016 for dissolution of the Corporate Debtor i.e. M/s Sadhbhawana Impex Private Limited.

2. The main Company Petition bearing CP (IB) No.41/Chd/Pb/2018 filed by Oriental Bank of Commerce (now Punjab National Bank) under Section 7 of the IBC, 2016, read with Rule 4 of I&B (Application to Adjudicating Authority) Rules, 2016 was admitted by the Adjudicating Authority, vide order dated 21.08.2018 for initiating CIRP and Mr. Sanjay Kumar Aggarwal bearing Registration No. IBBI/IPA-002/IP-N00126/2017-18/10295 was appointed as Interim Resolution Professional. It is stated that in the 6th COC meeting held on 22.01.2019, a resolution was passed to liquidate the corporate debtor with 100% voting and directed the party to file an application for the liquidation of the corporate debtor company. Subsequently, the Adjudicating Authority vide its order dated 13.02.2019 has passed an order for the liquidation of the Corporate Debtor under Section 33(2) of IBC, 2016 and appointed Mr. Sanjay Kumar Aggarwal, the existing RP, to act as Liquidator under Section 34(1) of IBC, 2016.

3. Thereafter, the Liquidator made the public announcement of liquidation on 19.02.2019 in Form B in three newspapers i.e. Financial

Express (English), Rozana Spokesman (Punjabi) and Pioneer (Hindi), all publication made on 21.02.2019 and invited claims from the Financial/Operational Creditors and workers/employees of the Company in terms of Regulations 12 of the IBBI (Liquidation Process) Regulations, 2016. (Annexure A-4 of the application). A copy of the public announcement in Form B was sent to IBBI/ICSI-IIP vide e-mail dated 24.02.2019 (Annexure A-5 of the application) and the same was uploaded on the website of the IBBI in compliance of Regulation 12(3)(c). Further, it is stated that the order for initiation of liquidation of the corporate debtor was submitted to Registrar of Companies, Punjab by way of letter dated 19.02.2019 and in its effect, the status of the company has been changed as 'under liquidation' as per Section 33(1)(b)(iii). Also, the same intimation was communicated to all the statutory authorities i.e. RoC, MCA, Income Tax Department, GST Department, Joint Director for DGFT, Deputy Commissioner, District Revenue Officer, Patiala and Bahraich etc. through e-mail/speed post by the liquidator which are attached as Annexure A-3 of the application.

4. Pursuant to the public announcement, applicant has received a claim of ₹39,45,67,352/- (Rupees Thirty Nine Crores Forty Five Lakhs Sixty Seven Thousand Three Hundred Fifty Two Only) from Oriental Bank of Commerce (Now Punjab National Bank) . The applicant has verified the claim in accordance with the Regulations 30 of IBBI (Liquidation Process) Regulations, 2016. Thereafter, the stakeholder consultation committee was constituted in accordance with Regulation 31A of IBBI (Liquidation Process) Regulation 2016.

5. Pursuant to Regulation 35 of the Liquidation Regulations, the Liquidator appointed four registered valuers i.e. Mr. Nishchint Maheshwari, Mr. Abhay Kumar, Mr. Suresh Kumar Sonthalia and Mr. Tanuj Kumar for valuation of assets of the Corporate Debtor. The applicant has considered average estimates of the values arrived at pursuant to Regulation 35 of IBBI (Liquidation Process) Regulations 2016 with cost approach method. On the basis of reports, the fare value of the assets of the Corporate Debtor is valued at ₹28.04 Crore and the liquidation value arrived by them was ₹19.96 Crores.

6. As per the requirement of Regulation 13 of the Liquidation Regulations, the Liquidator has already submitted the preliminary report to this Adjudicating Authority vide Diary No.1977 dated 16.04.2019, inter alia containing the following details;

- the capital structure of the Corporate Debtor;
- the estimates of its assets and liabilities as on the liquidation commencement date based on the books of the Corporate Debtor;
- the proposed plan of action for carrying out the liquidation, including the timeline within which the liquidation proceedings is proposed to be carried out; and
- the estimated liquidation costs.

7. In terms of Regulation 31 of the IBBI (Liquidation Regulations) 2016, the Liquidator has collated and submitted a list of stakeholders to the Adjudicating Authority (Annexure A-7 of the application). As per the list of stakeholders, Punjab National Bank (PNB) is the sole Financial Creditor (secured) having a claim amount of ₹39,45,67,352 /-. Apart from aforesaid Financial Creditor, no claims with respect to operational creditor, employees,

workmen's dues etc. have been received. The stakeholders consultation committee constituted of the sole Financial Creditor.

8. As per Regulation 34 of the Liquidation Regulations, the Liquidator submitted the true copy of preliminary report and asset memorandum as Annexure A-6 and A-10 respectively of the application, which inter alia contained the following information:

- the estimate value of the assets as on 13.02.2019, valued in accordance with Regulation 35;
- proposed plan of action for carrying out the liquidation;
- the estimated liquidation cost.

9. It is submitted that the Liquidator has issued different sale notices in accordance to the terms of Regulation 12(3) in different newspapers to conduct e-auction to release the liquidation estate of the Corporate Debtor on 29.07.2019, 26.08.2019, 27.09.2019, 18.10.2019, 19.12.2019 and 30.01.2020. The assets of the Corporate Debtor have been sold through sixth e-auction dated 30.01.2020 at a bid amount of ₹1645 Lakhs to M/s Sudhesh Industries Pvt. Ltd. and in terms of Regulation 36 of the Liquidation Regulations, the Liquidator has filed Bid Report as Annexure A-14 of the application. Copy of the sixth e-auction sale notice as published on 16.01.2020 is attached as Annexure A-13 of the application.

10. It is further submitted by the Liquidator that 6th sale notice has LOT-1 (includes plant & machinery and factory shed), LOT-2 (includes land & building) and LOT-3 (composite lot which includes LOT-1 and LOT-2). The preference will be given to the bidder of LOT-3 i.e. composite purchase of plant & machinery, industrial shed and factory land & building of the corporate

debtor. The Successful Bidder had bid for a price of ₹1645 lakhs which is 0.3% above the reserved price. The successful bidder also deposited the sale consideration of ₹1645 lakhs along with GST paid on plant & machinery to the liquidation account of the Corporate Debtor. Copy of bank statement of liquidation account is found attached as Annexure A-15 of the application.

11. It is further submitted by the Liquidator that an application had been filed by M/s G.P. Steels Pvt. Ltd. before this Adjudicating Authority and the e-auction proceedings were stayed vide order dated 12.02.2020. This Adjudicating Authority vide order dated 20.07.2020 dismissed the application stating that there was no illegality or irregularity in the conduct of auction.

12. It is further submitted that the Liquidator has complied with GST for sale of plant & machinery, a sale certificate has been issued by the Liquidator to the successful bidder vide letter dated 31.07.2020 (Annexure A-19 of the application) and executed a sale deed of the land & building on 30.09.2020 (Annexure A-20 of the application. There were no operations for the last five years as such there were no employees or no workmen in the Corporate Debtor and the factory unit of Corporate Debtor is shutdown.

13. It is submitted that the liquidator has prepared the Receipt and payment account of the corporate debtor from 01.04.2020 till 10.10.2020 and the same is audited (Annexure A-11 of the application).

14. That the liquidation cost includes cost of public announcement, miscellaneous expenditure, fees for dissolution application and the fee of liquidator which amounts to ₹93,25,561/- (Rupees Ninety Three Lakhs Twenty Five Thousand Five Hundred Sixty One Only).

15. The liquidator has also submitted that he has recovered and realized all assets and dues to the Corporate Debtor in the time bound manner as per compliance of Regulation 39 of the Liquidation Regulations. In terms of Regulation 42. The Liquidator has distributed the entire amount and kept ₹4,09,187/- which are payable upon performance of obligations and event of dissolution.

16. It is also submitted by the applicant that in terms of Section 43 of IBC 2016, no application for avoidance of transactions under Chapter III of Part II of the Code is pending before the Adjudicating Authority. There is no pending appeal of any creditors before this Adjudicating Authority under Section 42 of the IBC, 2016.

17. As per Regulation 45 of the Regulations, the liquidator has filed final report dated 26.06.2020 (Annexure A-21 of the application) along with a compliance certificate in Form H (Annexure A-22) along with the application. Details of the amount available for final distribution as per form H in terms of Section 53 of the Code, 2016 is mentioned below:

| **Sl. No.** | **Stakeholders under section 53(1)** | **Amount admitted** | **Amount Distributed** |
|---|---|---|---|
| | | | |
| 1 | **Section 53(1)** (a) CIRP Costs | 16,06,380/- | 16,06,380- |
| 2 | **Section 53(1)** (a) Liquidation Costs | 93,24,724/- | 93,24,724/- |
| 3 | **Section 53(1)** (b)(i) Secured FC | 39,45,67,353/- | 15,35,68,896/- |
| 4 | (b)(ii) | | |
| 5 | (c) | | |
| 6 | (d) | | |
| 7 | (e) (i) | | |
| 8 | e(ii) | | |
| 9 | (f) | 0 | 0 |

| | | | |
|---|---|---|---|
| 10 | (g) | | |
| | | 39,45,67,353/- | 16,45,00,000/- |

18. It is submitted that since the Corporate Debtor has been liquidated successfully and the realized amount has been distributed to the stakeholders as per Section 53 of the Code read with Regulation 42 of the Liquidation Regulations, the liquidation proceedings are construed to be concluded, the instant application is being made for dissolution of the Corporate Debtor.

19. It is further submitted that

(i) the entire process of liquidation is completed within the statutory time period

(ii) that none of the stakeholders have raised any objection against the solution of the corporate debtor during the meeting of stakeholders consultation committee

(iii) that the liquidator has not filed any other application concerning the subject matter of this application before any other court including the Hon'ble Supreme Court.

20. Heard, Mr. Ashok Gupta, authorised representative for the Liquidator and Mr. Sanjay Kumar Aggarwal, learned Liquidator. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

21. The present application is filed under action 54 of the I&B Code. The relevant provisions of Section 54 of the IBC reads as under:-

"*Section 54 of the IBC*

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 Sub-Section (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 data is registered."*

22. The above facts and circumstances of the case, has established that due process of Liquidation, as per extant provisions, was followed by the Liquidator to liquidate the assets of Company and the realized amounts were also distributed to the respective claimants. Therefore, the liquidation process is deemed to have been completed under Chapter III of Part II of Code, and thus it would be just and proper for the Adjudicating Authority to dissolve the Company. No party is going to be affected by dissolving the company.

23. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54(2) of the Code, the Interim Application bearing IA No.741/2020 in CP (IB) No.41/Chd/Pb/2018 is disposed of with the following directions:

(i) Sadhbhawan Impex Private Limited, the Corporate Debtor, is hereby dissolved with immediate effect;

(ii) The Liquidator is permitted to close the Liquidation Bank Account after the payment of pending amount held in the liquidation account within three weeks from the date of receipt of copy of this order.

(iii) The Registry is directed to forward a copy of this order to the Registrar of Companies, Punjab and Chandigarh within a period of two weeks from today;

(iv) The Liquidator is also directed to forward copies of this order to all other statutory authorities connected with the affairs of the Company.

(v) The liquidator, Shri Sanjay Kumar Aggarwal, is discharged from his duties and responsibilities as the liquidator of the corporate debtor company

24. Accordingly, IA No.741/2020 also stands allowed and disposed of.

| | |
|---|---|
| Sd/- | Sd/- |
| (Subrata Kumar Dash) | (Harnam Singh Thakur) |
| Member (Technical) | Member (Judicial) |

November 30, 2021
AV