

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

**IA(IBC)/1509(KB)2023
in
CP(IB)/338(KB)2018**

Under sections 54 of the Insolvency & Bankruptcy Code, 2016

In the matter of:

Bank of India

....Financial Creditor

Versus

M/s. Enfield Apparels Limited (CIN: U18101WB2007PLC116892)

.... Corporate Debtor

And

In the matter of:

**Mr. Kanchan Dutta,
Liquidator of M/s. Enfield Apparels Limited**

... Applicant

Order reserved on: 13/10/2023

Order pronounced on: 07/12/2023

Coram:

Smt. Bidisha Banerjee : **Member (Judicial)**

Shri Arvind Devanathan : **Member (Technical)**

Appearances (through video conferencing):

For RP : Mr. Rahul Auddy, Adv.
Mr. Aditya Gooptu, Adv.

ORDER

Per: Arvind Devanathan, Member (Technical)

1. This Adjudicating Authority convened through hybrid mode.

2. **IA(IBC)/1509(KB)2023** is an application filed u/s. 54 of the Insolvency and Bankruptcy Code, 2016 (“**IBC 2016**”) by the Liquidator of **M/s. Enfield Apparels Limited**, the Corporate Debtor, seeking dissolution of the Corporate Debtor. This application is supported by an affidavit¹ duly affirmed by the Liquidator.

3. **Brief Facts of the Case**

- (a) This Adjudicating authority *vide* its order dated 06/08/2018 in CP(IB)/338(KB)2018, had ordered initiation of CIRP against the Corporate Debtor appointing Mr. Kanchan Dutta as the Interim Resolution Professional (“**IRP**”). Liquidation order was passed on 04/04/2019 appointing the applicant as the Liquidator.
- (b) In terms of regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 (“**Liquidation Process Regulations**”) public announcement in Form B was made on 08/04/2019 in “Business Standard” (English) and “Aajkal” (Bengali) calling upon the stakeholders to submit their claims or update their claims submitted during the corporate insolvency resolution process as on the liquidation commencement date. In response, the applicant received two claims from Financial Creditors and four claims from Operational Creditors.
- (c) The Corporate Debtor had 2 major assets. A leasehold factory unit consisting of 4 modules of 11,302 Sft. Each, totaling to 45,208 Sft. Along with 6 car parking space situated at Paridhan Garment Park at 19, Canal South Road, Tangra, Kolkata 700015 (“**Factory Lease**”) and Plant and Machineries.
- (d) The applicant had made various public announcements for e-auction of the Plant and Machineries of the Corporate Debtor. However, no bids were received from any party. The applicant, thereafter, filed an application being CA(IB)/1157(KB)2019 for private sale of Plant and Machineries of the Corporate Debtor, and this Adjudicating Authority *vide* order dated 20/12/2019 had directed the Liquidator to approach trade associates, chambers of commerce and other industry bodies including other business

¹ At pages 29 and 30 of the application

forums or other professional organisation to fetch best price of the Plant and Machineries of the Corporate Debtor. Accordingly, one Anaadih Vincom Pvt. Ltd. was declared as the Successful Buyer on 24/02/2020 under swiss challenge method at an offer price of Rs.1,75,75,000/- (inclusive of GST). The sale of machineries of the Corporate Debtor was completed on 06/03/2020 and the proceeds thereof was duly distributed amongst the stakeholders.

- (e) The Factory Lease was granted to the Corporate Debtor by the West Bengal Industrial Development Corporation (WBIDC) by four Registered Deed of Lease on 06/08/2010 for a period of 99 years. Since only a period of 9 years has expired from its commencement, the Liquidator is entitled to transfer the residual period of the lease to the highest bidder. *Vide* orders dated 24/02/2020 and 12/03/2020 this Adjudicating Authority declared one Cotton Casuals (India) Pvt. Ltd. as the successful bidder for transfer of residual period of the Factory Lease.
- (f) WBIDC *vide* its letter no. WBIDC/Paridhan Garment Park/2701 dated 03/09/2020 informed that the bidder had to deposit transfer fees in favour of WBIDC @10% of the prevailing market price of the modules along with the car parking spaces. However, the said Cotton Casuals (India) Pvt. Ltd. (“**Successful Bidder**”) filed an application being IA(IB) No.1079/KB/2020 and this Adjudicating Authority *vide* its order dated 02/02/2021 had declined to grant waiver from payment of transfer fees by the applicant. Being aggrieved by the said order dated 02/02/2021 the Successful Bidder preferred an appeal before the Hon’ble NCLAT and the same was dismissed *vide* order dated 17/12/2021.
- (g) Transfer Fee was remitted to WBIDC finally on 11/01/2022 by the Liquidator after receiving the same from the successful auction purchaser and WBIDC has duly given had duly given its NOC on 14/01/2022. Thereafter, the Registration formalities were completed for all the 4 deeds. However, the Liquidator had received back two deeds from the Registration Authorities on

07/09/2022 and Registration of balance two deeds were held up due to some discrepancies. The Liquidator, accordingly, taken up the matter with Registration Authorities and send a Notice dated 18/01/2023 to the concerned Registering Authorities requesting to take immediate appropriate steps to enable the Liquidator to complete the liquidation process. Since, no reply was received, the Liquidator preferred a writ petition being W.P.O. 505 of 2023 before the Hon'ble High Court at Calcutta. When the matter came up finally for hearing on 05/06/2023, the following **order**² was passed:

“The Court: It is submitted by learned Counsel for the parties, in their usual fairness, that the concerned deeds regarding which the matter had arisen, have been handed over in the meantime to the petitioner by the respondent authorities after due registration.

In such view of the matter, the present writ petition has been rendered infructuous.

Accordingly, WPO/505/2023 is disposed of as infructuous in the light of the above observations. No order as to costs.”

4. As per regulation 41 of the Liquidation Process Regulations, the Liquidator had opened a bank account no.400020110001340 in the name of **“Enfield Apparels Ltd. – In Liquidation”** with Bank of India, Kolkata Main Branch, Kolkata on 24/05/2019. It is stated that the balance lying in the Liquidation Account after payment of other liquidation cost have been distributed to the stakeholders as prescribed in section 53 of the IBC 2016 and the Liquidation Account had been closed on 10/08/2023. A statement showing “Nil” balance is annexed with the application, which forms **Annexure ‘B’**³.
5. Under regulation 45(3) of the Liquidation Process Regulations, the Liquidator had filed **Compliance Certificate in Form H**⁴ giving the details of the Liquidation Process including that of the amount realized and distribution made amongst the stakeholders.

² Annexure ‘A’ at page 31 of the application

³ At page 32 of the application

⁴ Annexure ‘C’ at pages 33 to 41 of the application

6. Under regulation 45 of the Liquidation Process Regulations, the Liquidator had annexed the **Final Report**⁵ with the application prior to dissolution of the Corporate Debtor showing how the liquidation process has been conducted and how the corporate debtor's assets have been liquidated. Accordingly, the Liquidator had annexed with the Final Report documents (“**Annexure – A1**” to “**Annexure – A54**”) mainly on the following points:

- (a) Public Announcement;
- (b) Intimation of Initiation of Liquidation;
- (c) Invitation, Collection and Admission of Claims;
- (d) Filing of List of Stakeholders;
- (e) Opening of Bank Account;
- (f) Appointment of Accountant for preparation of up-to-date and submission of account;
- (g) Preliminary Report and Asset Memorandum;
- (h) Stakeholders' meeting;
- (i) Progress Reports;
- (j) Sale of Assets of the Corporate Debtor;
- (k) Distribution to Stakeholders
- (l) Details of ongoing application; and
- (m) Liquidator's A/c of Receipts and Payments;

It is also stated in the Final Report that the estimated cost given in the Preliminary Report filed by the Liquidator was calculated only for the first six months on the Liquidation Process. However, the Liquidation Period was extended on various occasions due to pendency of various application before the Adjudicating Authority, conducting of various e-auctions to sell the assets of the Corporate Debtor and ongoing litigations before the Hon'ble NCLAT, New Delhi and the Hon'ble High Court at Calcutta, which ultimately resulted in the exceeding of the Liquidation Costs as stated in the Preliminary Report filed by

⁵ Annexure 'D' at pages 42 to 410 of the application

the Liquidator.⁶ It is further stated in the Final Report that all the assets of the Corporate Debtor have been sold and funds have been distributed to the stakeholders and the liquidation account opened in the name of Corporate Debtor (in liquidation) with Bank of India was closed on 10/08/2023.⁷

7. Upon hearing the Ld. Counsel appearing for the Liquidator and perusing the documents annexed to the application, it appears that affairs of the Corporate Debtor were completely liquidated after realising the assets and distributing the amount to the stakeholders after complying with the provisions of section 53 of the Code in the order of priority as mandated under the IBC, 2016. The Liquidation Account in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached along with Bank Statement showing “Zero” balance in the Liquidation Account. Thus, the affairs of the Corporate Debtor have been completely wound up and its assets have been completely liquidated. The bank account had also been closed. In view of the above facts and circumstances stated above, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.
8. The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within **fourteen days** of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
9. The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.
10. **IA(IBC)/1509(KB)2023** is allowed with the above directions and both the **IA(IBC)/1509(KB)2023** and **CP(IB)/338(KB)2018** are hereby disposed of accordingly.
11. 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.

⁶ Para 13(b) of the Final Report at page 71 of the application

⁷ Para 14 of the Final Report at page 71 of the application

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12. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
13. File be consigned to records.

Arvind Devanathan
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 7th day of December, 2023.

hb.