(2022) 03 NCLT CK 0060

In the National Company Law Tribunal

Case No : IA (I.B.C.)/156(KB)2022 In CP(IB)/836(KB)2018

Maa Tara Ferrotech Private Limited Vs

Date of Decision : 24-03-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 36, 53, 54
Insolvency and Bankruptcy Board of India (LiquidationProcess) Regulations, 2016 — Regulation 41, 45

Citation : (2022) 03 NCLT CK 0060

Hon'ble Judges : Rohit Kapoor, Member (J);Harish Chander Suri, Member (T)

Bench : Division Bench

Advocate : Rishav Banerjee, Siddhanth Makkar

Final Decision : Disposed Of

Judgement

Harish Chander Suri, Member (Technical)

1. This Tribunal convened via video conference.

2. This is an application filed under section 54 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called the "Code") read with regulation 45 of the Liquidation Process Regulations by the Liquidator of Maa Tara Ferrotech Private Limited (CIN: U27205JH2012PTC000812) (hereinafter called the "Corporate "Debtor") praying for dissolution of the Corporate Debtor.

3. Vide order of this Adjudicating Authority dated 13/03/2020, the Corporate Debtor was admitted under CIRP appointing Mr. Sandip Kumar Kejriwal as Interim Resolution Professional. Subsequently, he was replaced by Mr. Anish Agarwal as Resolution Professional vide order dated 31/08/2020. Having been not able to resolve the stressed assets of the Corporate Debtor for want of any resolution plan, at the request of the Resolution Professional, an order of liquidation was passed vide order dated 22/01/2021 appointing the Resolution Professional, Mr. Anish Agarwal, as a Liquidator.

4. Public announcement of commencement of liquidation was made in Form 'B' in "Financial Express" (English) and "Ranchi Hindustan" (Hindi) on 24/01/2021

inviting proof of claims from the stakeholders of the Corporate Debtor in the specified forms and Form ‘B’ was also uploaded on the IBBI website.

5. After passing of the Liquidation Order, the applicant herein had formed Liquidation Estate u/s. 36 of the of the Code on the basis of custody of the plants & machineries taken by the applicant during the CIRP and appointed registered valuers for undertaking valuation of a piece of land in “Potka”, which was not covered in the scope of valuation under CIRP. The average liquidation value arrived at by the registered valuers was Rs.1,28,85,235/- Valuation reports of all the assets of the company are attached to the Final Report. It was found that Maa Tara Ferrotech Private Limited (Corporate Debtor) shares its boundaries with Maa Tara Ispat Industries Private Limited (a sister concern of the Corporate Debtor), which is also under Liquidation too; wherein the present applicant was also appointed as a Liquidator. In order to sell jointly the assets of both Maa Tara Ispat Industries Private Limited and Maa Tara Ferrotech Private Limited, an application being IA(IBC)468(KB)2021 in CP(IB)/1223(KB)2018 (Vaishno Engineer System Associates -vs- Maa Tara Ispat Industries Private Ltd.) was filed which was disposed of vide order dated 07/01/2022 as infructuous as the sale has already taken place.

6. In order to sell the assets of the company and in furtherance of the same the Liquidator had published a Sale Notice dated 02/09/2021 in “Financial Express” (English) all India Editions and “Jharkhand Hindustan” (Hindi) inviting prospective bidders to bid on the blocks of assets of the company. On the same date Sale Notice for sister concern of the Corporate Debtor, viz., Maa Tara Ispat Industries Private Limited was also published. As per Sale Notice dated 02/09/2021 of the Corporate Debtor, the assets in Unit 2 & Unit 4 were to be sold with Unit 2 & Unit 3 of Maa Tara Ispat Industries Private Limited to a common buyer only due to nature of assets being intermingled. In response to the advertisements two bidders, namely, (1) Mr. Pawan Kumar Agarwal and (2) Vishnu Engineering Corporation have submitted their offers. After due deliberation Mr. Pawan Kumar Agarwal has emerged as the successful bidder.

7. Being aggrieved by the decisions of the Liquidator declaring Mr. Pawan Kumar Agarwal as the successful bidder, Vishnu Engineering Corporation has filed an application being IA(IBC)880(KB)2021 in CP(IB) No.836(KB)2018 before this Adjudicating Authority, which was dismissed as withdrawn vide order dated 10/01/2022.

8. The Liquidator has opened a new bank account in the name of corporate debtor as per regulation 41 of the Liquidation Process Regulations, with ICICI Bank, Lalpur, Ranchi on 23/02/2021.

9. The Liquidator had received only one claim from the stakeholders and submitted the same before the Adjudicating Authority on 06/03/2021 as well as published the same on 18/03/2021 in the manner specified under regulation 12(3) of the Liquidation Process Regulations.

10. The Liquidator thereafter filed Preliminary Report as per regulation 13 of the Liquidation Process Regulations as well as Asset Memorandum as per regulation 34(4) of the Liquidation Process Regulations on 23/03/2021.

11. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator has filed four Progress Reports from time to time before the Adjudicating Authority, and the final report as on 30/09/2021, disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor has been annexed to the application at pages 347 to 391. As per mandatory requirement under regulation 45(3) of the Liquidation Process Regulations, the Liquidator has prepared a compliance certificate under prescribed 'Form H' and the same is annexed to the application at pages 392 to 398.

12. The affairs of the Corporate Debtor were completely liquidated after realising the assets and distributing the amount to the stakeholders after complying with the provision of section 53 of the Code in the order of priority as mandated under the Act. Details of realisation and distribution have been specifically mentioned in 'Form-H' and Final Reports are annexed to the application at pages 392 to 398 and at pages 347 to 391 respectively. The Account of Liquidation in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached in the Final Report. Bank Statement up to the filing of the application and Audited Account of Receipt of Payments are also annexed at page 391 to the application.

13. 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 have been completely wound up and its assets have been completely liquidated. The bank account has also been closed and no liabilities of the stakeholders have been left unsatisfied.

14. In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.

15. The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, Jharkhand, immediately and, in any case, within fourteen days of receipt of this order. The Registrar of Companies, Jharkhand shall take further necessary action upon receipt of a copy of this order.

16. IA (IBC)/156(KB)2022 along with CP(IB)/836(KB)2018 shall stand disposed of in accordance with the above directions.

17. 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.

18. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

19. File be consigned to the record.