(2022) 02 NCLT CK 0102

In the National Company Law Tribunal

Case No : I.A. (IB) No. 106/KB/2021 in C.P (IB) No. 265/KB/2019

Mr Cecil Antony APPELLANT

Vs

SPS Ispat & Power Limited RESPONDENT

Date of Decision : 28-02-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 43, 45, 45(1), 50, 53, 54(2)
Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 — Regulation 15, 34(4), 35, 45(1), 45(3)

Citation : (2022) 02 NCLT CK 0102

Hon'ble Judges : Rajasekhar V.K., Member J;Balraj Joshi, Member, T

Bench : Division Bench

Advocate : Aryaa Chatterjee, Rakesh Agarwal

Final Decision : Disposed Of

Judgement

Rajasekhar V.K., Member (Judicial)

1. This court convened via video conferencing.

2. This is an application filed under section 54(2) of the Insolvency and Bankruptcy Code, 2016 ('the Code') read with regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ('Liquidation Process Regulations') by the Liquidator of SPS Ispat & Power Limited [CIN:U27100WB2011PLC158285] ('Corporate Debtor') praying for dissolution of the Corporate Debtor.

3. The Adjudicating Authority vide order dated 08 August, 2019 Annexure A of the I.A., admitted the Corporate Debtor under Corporate Insolvency Resolution Process ('CIRP') appointing Mr. Santosh Choraria as Interim Resolution Professional ('IRP'). Subsequently, vide Order dated 29 October, 2019, Mr. Rakesh Agarwal ('Applicant') was appointed as the Resolution Professional ('RP') by replacing the Mr. Santosh Choraria as the IRP.

4. The Applicant had received only one Resolution Plan from NSHM Academy but

the same was withdrawn. Since no Resolution Plan was received after that, the Committee of Creditors ('CoC') unanimously voted to liquidate the Corporate Debtor and requested the Applicant to file an application for liquidation. Subsequently, on 19 January, 2021 an order for liquidation was passed by this Adjudicating Authority, appointing Mr. Rakesh Agarwal as the Liquidator. Annexure I of the I.A.

5. In terms of regulation 12 of Liquidation Regulation Process, public announcement of commencement of liquidation was made in Form 'B' in 'Financial Express' (English) and 'Aajkal' (Bengali) on 22 January, 2021 inviting proof of claims from the stakeholders of the Corporate Debtor within 18 February, 2021.

6. As per regulation 35 of the Liquidation Process Regulations, 2016, the Applicant had appointed registered valuer. Further, a list of stakeholders was also prepared and submitted before the Adjudicating Authority in the manner specified under regulation Regulation 31(2) read with 12(3) of the Liquidation Process Regulations

7. Pursuant to the publication in Form-B, the Liquidator had received claims from the following stakeholders:

SI No.

Claimants

i)

Hari Charan Garg Charitable Trust (Financial Creditor)

ii)

NSHM Academy (Financial Creditor)

iii)

Shyama Iron & Alloys Private Limited (Financial Creditor)

iv)

Subhlabh Steels Private Limited (as both as unsecured Financial Creditor & Operational Creditor)

v)

Bholanath Ingots Private Limited(as both as unsecured Financial Creditor & Operational Creditor)

vi)

Gouri Iron & Steel Private Limited (as Operational Creditor)

vii)

SPS Steels Limited (as Operational Creditor)

8. The Applicant has filed Preliminary Report as per regulation 13 of the Liquidation Process Regulations and Asset Memorandum as per regulation 34(4) of the Liquidation Process Regulations on 20 March, 2021. The final report disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor is at page 456 to 465 of the I.A.

9. The Applicant had opened a new bank account in the name of Corporate Debtor i.e., SPS Ispat & Power Limited (In Liquidation) [Account number:-000605035260] as per regulation 41 of the Liquidation Process Regulations, with ICICI Bank, Kolkata on 06 February, 2021.

10. The Applicant has disposed off the fixed assets of the Corporate Debtor through e-auction. Upon receipt of total sale price of Rs.2,17,750/-, a certificate of Sale dated 30 September, 2021 was executed between the Applicant and Maruti Metal.

11. It is further submitted that the Applicant has distributed the entire amount in accordance with section 53 of the Code. In compliance of regulation 15 of the Liquidation Process Regulations, the Applicant has filed seven progress reports for each quarter since the order of commencement of Liquidation Process.

12. As per mandatory requirement under regulation 45(3) of the Liquidation Process Regulations, the Applicant has prepared a compliance certificate under prescribed ‘Form H’ and the same is annexed as Annexure – ‘Q’ to the application. Pages 456 - 466 of the I.A

13. 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 Code. Details of realization and distribution have been specifically mentioned in Final Report. 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.

14. Upon hearing the Liquidator and on perusal of 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 of the Corporate Debtor has been closed on 17 December, 2021.

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

16. The Applicant 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.

17. The Applicant shall stand discharged from his responsibilities, subject to

procedural compliances.

18. I.A. (IB) No. 106/KB/2021 and CP (IB) No. 265/KB/2019 shall stand disposed of in accordance with the above directions.

19. The Registry is directed to send e-mail copies of the order forthwith to all the parties for information and for taking necessary steps.

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

21. File be consigned to the record