
(2023) 05 NCLT CK 0037

In the National Company Law Tribunal

Case No : IA No. 2926 Of 2022 IN CP (IB) No. 82 Of 2019

Mr. Dilipkumar Natvarlal Jagad Liquidator of Trident Tools Limited Vs

Date of Decision : 12-05-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 7, 53, 54, 60(5)
Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 —
Regulation 12, 13, 34

Citation : (2023) 05 NCLT CK 0037

Hon'ble Judges : Kuldip Kumar Kareer, Member (J); Shyam Babu Gautam,
Member (T)

Bench : Division Bench

Advocate : Prashant Thakre

Final Decision : Disposed Of

Judgement

Kuldip Kumar Kareer, Member Judicial

1. This is an Application filed by Mr. Dilipkumar Natvarlal Jagad, the Liquidator of the Corporate Debtor under Section 54 of the Insolvency & Bankruptcy Code, 2016 (hereinafter called "the Code") seeking dissolution of the Corporate Debtor.

2. On perusal of this Application, it is evident that the Company Petition No. 82 of 2019 filed by the Financial Creditor under Section 7 of the Code was admitted by this Tribunal vide an Order dated 18th September 2019 and subsequently Mr. Nitin Vishwanath Panchal was appointed as the Interim Resolution Professional (IRP) for conducting the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor. A Paper Publication dated 19th September 2019 in Form A by the IRP pursuant to which the Committee of Creditors (CoC) was constituted based on the claims received. A total of six meetings were held in the course of the CIRP. The IRP was appointed as the RP in the First Meeting of the CoC held on 15th October 2019. The RP published the Expression of Interest (EOI) in Form G as per the CIRP Regulations pursuant to which two potential resolution applicants submitted their proposals and one Resolution Plan was received but it was rejected by the CoC.

3. Consequently, the CoC decided to liquidate the Corporate Debtor in its Sixth Meeting held on 24th February 2020 and the CoC also decided to appoint the present Applicant as the Liquidator in its Seventh Meeting held on 26th February 2020. This Tribunal appointed the Applicant as the Liquidator of the Corporate Debtor and directed the initiation of the Liquidation process as envisaged under the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (hereinafter called as "Regulations") vide Orders dated 31st May 2021 and 1st September 2021, copies of which have been attached to this Petition.

4. On the commencement of the Liquidation, the Liquidator made a Paper Publication in Form B inviting claims from Creditors as per Regulation 12 of the Regulations and on receipt of claims from Operational and Financial Creditors, the Liquidator prepared and submitted a List of Stakeholders and the Stakeholders Consultation Committee to this Tribunal on 25th October 2021. The Liquidator also prepared the Asset Memorandum as per Regulation 34 and the Preliminary Report as per Regulation 13 of the Regulations and submitted the same to this Tribunal. The Liquidator duly prepared and submitted quarterly Progress Reports on various dates between 7th October 2021 and 29th August 2022, copies of which have been annexed to this Application.

5. The Liquidator had opened a new Bank Account with ICICI Bank in the name of Trident Tools Limited- In Liquidation on 14th October 2021. The Liquidator also appointed M/s Urvi Gala & Associates for auditing the Receipt and Payment Account for the period from 1st September 2021 to 31st March 2022 and the same was submitted along with the Third Progress Report. Additionally, an audit for the entire duration of the Liquidation was conducted for the period between 1st September 2021 and 27th August 2022. The Liquidator conducted a total of 5 (five) meetings with stakeholders, the reports of which have been duly attached to this Application.

6. The Company had immovable and movable assets consisting of Land (leasehold and Building and Plant and Machinery situated at Survey Number 26, Hissa Number 02 & 2P, Tembhode Shirgaon Road, Village Dhansar, Taluka & District – Palghar- 401 404. The assets were sold on "as is where is", "as is what is", "whatever there is" and "on recourse" basis through e-auction in the fifth attempt. Mr. Kunal Sanjay Agarwal, located at Neelkanth, Plot No. 21, Gulmohor Cross Road No. 6, Near Ecole Mondel School, JVPD Scheme, Mumbai 400 059, was the successful bidder, with the highest bid amount of Rs. 4,00,95,000/- for Land and Building and Rs. 2,55,15,000/- for Plant and Machinery, totaling to Rs. 6,56,10,000/- (excluding GST). The Sale certificate was issued on 8th August 2022, and possession was given on 16th August 2022. The details of the realized value of the assets are annexed to the Application. The liquidation amount so realized was distributed in the following manner after adjustment of CIRP and Liquidation cost is tabulated as follows:

Name of Creditor

Punjab National Bank

Class of Creditor

Financial Creditor

Amount Claimed

Rs. 1,29,40,19,288/-

Amount Paid in 1st tranche

Rs. 6,00,00,000/-

Amount Paid in 2nd tranche

Rs. 28,18,911/-

The balance amount was distributed on 26th August 2022 after including the CIRP Cost and Liquidation Cost. It is submitted that the other unsecured financial creditors and operational creditors were not entitled to any payment under Section 53 of the Code.

7. The Applicant submits that the Final Report dated 29th August 2022 has been filed with this Tribunal and the Compliance Certificate in Form H is attached to the said Final Report. In view of the completion of liquidation process, the present Application has been filed 12th October 2022 for seeking dissolution of the Corporate Debtor.

FINDINGS

8. On examining the submissions made by the Applicant and the documents annexed to the Application, it appears that the affairs of the Corporate Debtor have been wound up and its assets have been completely liquidated. We have noted the details of the Receipt and Payments for the period between 1st September 2021 to 27th August 2022 (the entire duration of the Liquidation process) including the total balance which appears as nil. We are satisfied from the documents on record that the liquidation is not with intent to defraud any person. The above facts and circumstances indicate that due process of liquidation, as per extant provisions and in the manner indicated in the Code and Regulations, have been followed by the Liquidator to liquidate the assets of Company. The liquidation process has been duly completed as per the provisions of the Code. Thus, it would be just and equitable for this Tribunal to dissolve the Corporate Debtor. No party is going to be adversely affected thereby.

9. In view of the above, the Corporate Debtor deserves to be dissolved. Hence ordered.

ORDER

The Application be and the same is allowed as follows:

- a. Trident Tools Limited, the Corporate Debtor, is hereby dissolved with immediate effect.
- b. The Registry is directed to forward a certified copy of this order to the Registrar of Companies concerned, within a period of seven days for necessary action.
- c. The Liquidator of Trident Tools Limited is discharged.
- d. The present IA No. 2926 of 2022 is thus allowed and disposed of and CP (IB) No. 82 of 2019 stands closed.