
(2023) 03 NCLT CK 0030

In the National Company Law Tribunal

Case No : IA No.158/2022 In CP (IB) No.93/Chd/Hry/2018

M/s Paper Creations Vs M/s Jai Laxmi Lighting Industries Pvt. Ltd ?

Date of Decision : 06-03-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 9, 36, 43, 53, 54, 54(1), 54(2), 66
Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for
Corporate Persons) Regulations, 2016 — Regulation 12(3)
Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 —
Regulation 42, 44(1), 45(3)(b)

Citation : (2023) 03 NCLT CK 0030

Hon'ble Judges : Harnam Singh Thakur, Member (J); Subrata Kumar Dash,
Member (T)

Bench : Division Bench

Advocate : Mohinder Singh, Vipul Garg

Final Decision : Disposed Of

Judgement

Harnam Singh Thakur, Member (Judicial)

1. The instant Application under Section 54(1) of Insolvency & Bankruptcy Code, 2016, read with Regulation 45(3)(b) of the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016, has been filed by the liquidator for dissolution of the corporate debtor, i.e. M/s Jai Laxmi Lighting Industries Pvt. Ltd.

2. The main Company Petition bearing CP (IB) No.93/Chd/Pb/2018 filed by the Operational Creditor, i.e. M/s Paper Creations under Section 9 of the Insolvency and Bankruptcy Code, 2016. The same was admitted by this Adjudicating Authority vide order dated 26.04.2018. Vide the order dated 21.02.2019, Mr Vipul Garg, i.e. the applicant, was appointed as Liquidator, and the appointment of the applicant as liquidator was intimated on 01.03.2021.

3. It is submitted that the applicant had made a public announcement as per Regulation 12(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, in two newspapers, one in English and one in Hindi, dated 03.03.2019. Calling upon the stakeholders to submit their claims and

update their claims which were submitted during the CIRP, as on the liquidation commencement date.

4. It is submitted that a new current bank account was opened in the name of the corporate debtor, and the process of appointment of the valuers was also initiated for fresh valuation of the assets of the corporate debtor. Further, the liquidator had received the claims from the stakeholders, i.e., financial creditors and operational creditors, out of which the claims to the tune of Rs. 29,66,32,963/- were admitted by the applicant. The corporate debtor was not a going concern as the work and operations of the company were shut down by the management prior to the initiation of CIRP.

5. It is submitted by the liquidator that the applicant had formed the liquidation estate as per Section 36 of the IBC. Further, during the liquidation process, the stocks, plant and machinery of the corporate debtor were sold during the liquidation process, from which the total amount realized from the liquidation of the corporate debtor was Rs. 1,70,49,610/-. The liquidation cost also included a cost of Rs. 5,50,000/- as a provision for future litigation costs towards the present dissolution application and for other applications pending before this Adjudicating Authority.

6. It is further submitted that the liquidator had successfully completed the liquidation of the corporate debtor and thereafter distributed the proceeds from the sale of the assets of the corporate debtor to the stakeholders after adjusting the CIRP cost/liquidation cost. The details of distribution to stakeholders under Section 53 of IBC, 2016 are as under

Sr. No.

Stakeholders U/s 53

Amount Claimed

Amount Admitted

Amount Distributed

%age

1.

CIRP Cost

1860684

1860684

1860684

100%

2.

Liquidation cost

2786091

2786091

2786091

100%

3.

EPFO(Govt./Workmen Dues)

142463

142463

6014

4.20%

4.

Canara Bank

295751882

295751882

12396821

4.20%

Total

17049610

7. It is stated by the liquidator that the final report has been submitted before this Adjudicating Authority vide diary No. 00300/11 dated 23.02.2022. Further, the liquidator, while carrying out the liquidation process of the corporate debtor, has taken care of all the provisions of the IBC, 2016 and the Liquidation Regulations. The liquidator has also submitted his compliance certificate in Form H, certifying that the liquidation process has been carried out with all the provisions of the IBC, 2016 and the Liquidation Regulations, and all the necessary compliances have been made.

8. It is submitted by the liquidator that this Adjudicating Authority can dissolve the corporate debtor while pending applications for PUFE transactions, i.e. IA No. 1314/2022 and IA No. 1315/2022. The same has been provided in Regulation 44(1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

9. It is submitted that all the assets of the Corporate Debtor are sold, and there remains no unsold property, and as such, no unsold property has been

distributed to the stakeholders. All the CIRP costs and part of the Liquidation process cost have been recovered.

13. Pursuant to the order dated 05.12.2022 of this Adjudicating Authority, the applicant liquidator has filed a compliance affidavit vide diary No. 00342/2 dated 21.12.2022, wherein stating that the proceeds made available from the applications from PUFEE transactions in the present matter bearing IA No. 1314/2022 and IA No. 1315/2022 would be distributed amongst the stakeholders as per the waterfall mechanism under Section 53 of the IBC, 2016 and the same applications shall be pursued by the stakeholders, i.e. Canara Bank after the dissolution of the present corporate debtor, and the legal expenses and incidental expenses towards the same will be paid by the creditors in accordance with the amount received from the recovery of the same. The undertaking dated 02.12.2022 from the stakeholders, i.e., Canara Bank, is attached as Annexure A of the compliance affidavit.

13. It is further 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.

14. Heard, Mr Mohinder Singh, authorised representative for the Liquidator. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

15. The present application is filed under Section 54 of the I&B Code. The relevant provisions of Section 54 of the IBC read 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.”

16. The above facts and circumstances of the case have established that due process of Liquidation, as per extant provisions, was followed by the Liquidator to liquidate the assets of the 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 the 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.

17. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54(2) of the Code, the Interim Application bearing IA No.158/2022 in CP (IB) No.93/Chd/Hry/2018 is disposed of with the following directions:

(i) M/s Jai Laxmi Lighting Industries 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 the pending amount, if any, held in the liquidation account within three weeks from the date of receipt of a copy of this order.

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

(iv) The stakeholder, i.e. Canara Bank is directed to pursue the pending PUFE applications filed under Section 43 & 66 of the Code as per the undertaking dated 02.12.2022.

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

(vi) The Liquidator, Shri. Vipul Garg is discharged from his duties and responsibilities as the liquidator of the corporate debtor company.

18. Accordingly, IA No.158/2022 stands allowed and disposed of.