
(2024) 02 NCLT CK 0001

In the National Company Law Tribunal

Case No : IA-5182/2023 in CP(IB)-809/MB/2020

Nailesh Dresswala Vs MTC ECOM Private Limited ?

Date of Decision : 01-02-2024

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 7, 54(1)

Citation : (2024) 02 NCLT CK 0001

Hon'ble Judges : Kishore Vemulapalli, Member (J); Anu Jagmohan Singh, Member (T)

Bench : Division Bench

Advocate : Bindu Parekh

Final Decision : Disposed Of

Judgement

Kishore Vemulapalli Hon'ble Member (Judicial)

1. This is an Application filed under Section 54(1) of the Insolvency and Bankruptcy Code, 2016, (hereinafter called "Code") on 01.11.2023 by Mr. Balaji Shrirang Sagar, Liquidator appointed in the Corporate Debtor (hereinafter called "Applicant"), seeking dissolution of the Corporate Debtor viz. MTC E-Com Private Limited, having registered address at 201-A, Pinnacle Corporate Park (2nd Floor.), Building No.19, 'A' Wing, Bandra-Kurla Complex, Bandra (E), Mumbai - 400 051, Maharashtra.

2. The Company Petition filed by the Financial Creditor viz. Nailesh Dresswala, under Section 7 of the Insolvency & Bankruptcy Code, seeking Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was admitted by this Tribunal vide order dated 17.08.2020 in CP(IB)-809/MB/2020, wherein Mr. Dilip Vasudeo Gupta (Reg. No.: IBBI/IPA-002/IP-N00765/2019-2020/12484) was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor.

3. That the said IRP after inviting claims from the creditors through a public announcement constituted the Committee of Creditors (CoC) and the CoC held its third meeting on 11.02.2021 wherein the members unanimously passed a resolution for liquidation of the Corporate Debtor. Accordingly, this Bench passed

an order dated 26.07.2022 in IA-923/2021 directing commencement of liquidation of the Corporate Debtor, appointing Mr. Balaji Shrirang Sagar [IBBI/ IPA-001/IP-P01555/2018-2019/12441] as Liquidator.

4. The Liquidator/Applicant published public announcement in Form B on 11.11.2022 in English (Financial Express) and in Marathi (Navakaal) newspapers. The Applicant received claims from various stakeholders. Accordingly, constituted Stakeholders' Consultation Committee (SCC).

5. The Applicant has filed Progress Reports on Liquidation periodically with this Tribunal as follows:

Sr.#

Particulars

Filing Dt.

1.

First Progress Report on Liquidation as on 31.12.2022.

20.01.2023

2.

Second Progress Report on Liquidation as on

31.03.2023.

13.04.2023

3.

Third Progress Report on Liquidation as on 30.06.2023.

13.07.2023

4.

Fourth Progress Report on Liquidation as on

30.09.2023.

07.10.2023

6. The Applicant states that newspaper publication was made on 20.04.2023 in two local newspapers i.e. in English and Marathi for E-auction of the assets of the Corporate Debtor. On 27.05.2023, E-auction of the assets was conducted. The Applicant further submits that after consultation with SCC, the Not Readily Realizable Assets (NRRA) assigned to Scorchers Services II Pvt. Ltd., after which, there are no unsold property of the Corporate Debtor.

7. The Applicant further states that in the third meeting of the SCC held on 31.07.2023, the stakeholders decided to dissolve the Corporate Debtor and

accordingly unanimously passed the following resolution:

“RESOLVED FURTHER THAT the Stakeholders Consultation Committee be and hereby approve the decision of Liquidator to file early dissolution under regulation 14 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

RESOLVED FURTHER THAT Mr. Balaji Sagar, Liquidator of the Company be and is hereby authorized to do all such acts, deeds, things as may be considered necessary to give effect to the above resolution”.

8. Applicant has also filed Compliance Report in Form-H dated 20.10.2023 as also Final Report dated 20.10.2023.

9. The Liquidator has filed Receipts and Payments statement certified by the Auditor, which shows that all expenses are paid out of the funds of the company and no balance is left in the cash and bank account of the company. Further stated that there were no property and assets lying with the Corporate Debtor and nothing was proposed to be sold as on 04.10.2023.

10. In the Final Report, the Liquidator has also attached the Auditor's Report dated 04.10.2023 certifying the Receipt & Payment Account of liquidation of the Corporate Debtor by the Liquidator.

11. The Liquidation A/c of the Corporate Debtor with Yes Bank, Bundgarden Branch has been closed and the Bank has sent Letter dated 29.09.2023 through email informing that the Liquidation Account with Yes Bank is closed w.e.f. 28.09.2023, copy of which is part of the Application.

12. The Liquidator has filed this Application before this Tribunal under Section 54(1) of IBC, 2016 seeking an order of dissolution of the Corporate Debtor viz. MTC E-Com Private Limited.

13. On examining the submissions made by the Ld. Counsel appearing for the Applicant/Liquidator and the documents annexed to the Application, it appears that the affairs of the Corporate Debtor have been wound up and there are no assets to be liquidated. We are satisfied from the documents on record that the liquidation is not with intent to defraud any person.

14. 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 in the liquidation process. The liquidation process has been duly completed as per the provisions of the Code. Thus, it would be just and equitable to dissolve the Corporate Debtor. No party is going to be adversely affected thereby. In view of the above, the Corporate Debtor deserves to be dissolved. Hence, ordered that -

i) MTC ECOM Private Limited [CIN: U74999MH2011PTC224691], the Corporate Debtor, is hereby dissolved with immediate effect;

ii) The Registry is directed to forward a certified copy of this order to the Registrar of Companies, Mumbai within a period of seven days;

iii) The Liquidator is discharged.

15. Accordingly, IA-5182/2023 is allowed and disposed of. Also, CP(IB)-809(MB)/2020 is hereby CLOSED. File to be consigned to records.