(2022) 11 NCLT CK 0029

In the National Company Law Tribunal

Case No : IA(IBC)857(KB)2022 In CP(IB)/1338(KB)2018

?Sunil Kumar Kasera — APPELLANT

Vs

Amricon Agrovet Private Limited — RESPONDENT

Date of Decision : 07-11-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 9, 53, 54(1)
Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 — Regulation 13, 15, 31, 34(4), 41, 45(1), 45(3)

Citation : (2022) 11 NCLT CK 0029

Hon'ble Judges : Rohit Kapoor, Member (J);Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Shruti Singhania

Final Decision : Disposed Of

Judgement

Rohit Kapoor, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.

2. IA(IBC)/857(KB)2022 is an application filed under section 54(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called the "Code") read with regulation 45(3) of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter called the "Liquidation Process Regulations") by the Liquidator of Amricon Agrovet Private Limited (CIN: U01409WB2000PTC090900) (hereinafter called the "Corporate Debtor") praying for dissolution of the Corporate Debtor. This application is duly supported by an affidavit Annexure – S at pages 112 to 114 of the application affirmed by Mr. Asim Kumar Bose, Liquidator.

3. This Adjudicating Authority vide its order dated 30/09/2019 on a Petition filed by Sunil Kumar Kasera (Operational Creditor) under section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP). At the first meeting of the CoC held on

11/11/2019, wherein inter alia resolution was passed to appoint the IRP as the Resolution Professional (RP). Subsequently, vide order Annexure – D at pages 44 to 48 of the application. dated 07/01/2021 this Adjudicating Authority had ordered liquidation of the Corporate Debtor appointing Mr. Asim Kumar Bose, the Applicant, as Liquidator.

4. Public announcement Annexure - E at pages 49 to 50 of the application of commencement of liquidation was made in Form – B in "Financial Express" (English) and "Ekdin" (Bengali) on 14/01/2021 inviting proof of claims from the stakeholders of the Corporate Debtor.

5. The Liquidator had opened a new bank account on 02/09/2021 being A/c. No. 223102000000212 in the name of Corporate Debtor as per regulation 41 of the Liquidation Process Regulations, with Indian Overseas Bank, Rajarhat Branch, Plot No. II, D/3, Commercial Centre, Uttara Housing Complex, Kolkata 700161.

6. Vide order Annexure – F at page 51 of the application dated 17/02/2022 passed in IA(IBC)/21(KB)2022 this Adjudicating Authority had granted six months extension w.e.f. 17/02/2022 for completion of the liquidation process

7. The Liquidator had received claims from the stakeholders and submitted the List of Stakeholders, (category-wise) before the Adjudicating Authority on 14/04/2021 as per regulation 31 of the Liquidation Process Regulations.

8. 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 06/04/2021 and 28/05/2021 respectively.

9. The Applicant/Liquidator conducted three e-auctions on 24/09/2021(1st), 09/11/2021(2nd), and 10/03/2022(3rd). At the 3rd e-auction, there were two bidders, one bidder for each property. Ms. Shaiwalini Singh was the successful bidder for acquiring the Industrial Land situated at Hajipur Industrial Estate measuring 87 Dec. (Lease Deed no. 1230 dated 18th February, 2002) and M/s. Balaji Enterprises was the successful bidder for acquiring the Industrial Land situated at Hajipur Industrial Estate measuring 41.30 Dec. (Lease Deed No. 2653 dated 31st May, 2009). Upon receipt of the entire sale consideration of Rs.1,85,63,000/-, the Liquidator issued a Certificate of Sale Annexure – N at pages 88 to 93 of the application to the Successful Bidders in accordance with clause 1(13) of Schedule I of the Liquidation Process Regulations on 04/04/2022.

10. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator had filed six Progress Reports from time to time before the Adjudicating Authority. The Final Report Annexure – Q at pages 104 to 106 of the application and Compliance Certificate in Form – H Annexure – R at pages 107 to 111 of the application have been filed along with the dissolution application disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor as per mandatory requirement under regulation

45(3) of the Liquidation Process Regulations.

11. In compliance of regulation 41 of the Liquidation Process Regulations, the Liquidator had filed copy of the bank statements Annexure - P at pages 100 to 103 of the application pertaining to the liquidation bank account, which was opened by him in the name of the Corporate Debtor showing receipt and disbursement of the sale proceeds in favour of the eligible stakeholders.

12. The affairs of the Corporate Debtor have been 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 realisation and distribution have been specifically mentioned in Annexure – Q at pages 104 to 106. The Liquidation Account in terms of regulation 45(1) of the Liquidation Process Regulations and details thereof have been attached along with Bank Statement showing "zero" balance in the liquidation account (Annexure – P at pages 100 to 103).

13. Upon hearing the Ld. Authorised Representative 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.

14. In view of the above facts and circumstances, there is no impediment in 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, 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.

16. IA(IBC)857(KB)2022 and CP(IB)/1338(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.

