

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III

IA-4681/ND/2022
IN
CP(IB)-1413/ND/2018

(Under Section 54 of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

M/s. RSP STAMPING INDUSTRIES

...Operational Creditor

VERSUS

M/s. ASSOCIATED APPLIANCES LTD.

...Corporate Debtor

AND

IN THE MATTER OF

MR. SANDEEP KUMAR BHATT

Liquidator of Associated Appliances Ltd.
83B, Pocket-IV, Mayur Vihar-I,
Delhi-110091

...Applicant/Liquidator

Order Delivered on: 22.07.2024

CORAM:

SHRI BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI, MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant: CMA SK Bhatt, Liquidator

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. This Application has been filed by the Resolution Professional of M/s. Associated Appliances Ltd. on 26.09.2022 before this Adjudicating Authority under Section 54 of the Insolvency and Bankruptcy Code, 2016 (“IBC” or “Code”), for seeking the following reliefs:
 - a. *“To order for the dissolution of the Corporate Debtor in terms of Section 54(2) of the IB Code, 2016 as the assets of the Corporate Debtor are Liquidated;*
 - b. *To pass any order(s) which the Hon’ble Tribunal may deem fit and proper in the interest of justice and equity.”*

2. To put it briefly, the facts of the case are that by an order of the Adjudicating Authority CIRP was initiated against the Corporate Debtor i.e. M/s. Associated Appliances Ltd. on 16.04.2019 and moratorium came into effect. Mr. Jyoti Ranjan Tarafdar was appointed as an IRP and then the applicant Mr. Sandeep Kumar Bhatt was appointed as RP by an order of the Adjudicating Authority dated 03.02.2020.

3. In compliance of the orders of the Adjudicating Authority, the Liquidator/Applicant has diligently conducted the Liquidation process in accordance with the IBC and the applicable Regulations. The Liquidation process has been completed. The terms of sale, reserve price, bid incremental value, type of newspaper, bid terms and conditions were fixed after consultation with the stakeholders of which all the minutes have been filed with quarterly progress reports. The e-auction was conducted by the independent e-auction agency namely claim Bridge technologies and Auction tiger. The advertisements were published in the newspapers namely jansatta and the Financial express.

4. The details of the assets of the Corporate Debtor are placed on record with Liquidation value, sale value and auction details. The BMW car having Liquidation value of Rs. 44.66 Lac is sold by the HDFC Bank for a value of Rs. 60.00 Lac as the HDFC Bank was having an exclusive charge and had not relinquished the security interest in favour of the Liquidator. The details of the buyers to whom the assets have been sold in e-auction are placed on record.
5. The list of claims filed and admitted by the former Liquidator is as under:

ASSOCIATED APPLIANCES LTD				
CLAIMS AS ON 03.06.2021				
s. No	Nature of Claims	No of Claimants	Amount Claimed	Amount Admitted
1	FCS			
	Secured	2	155292643	141866335
	Unsecured			
	Total (1)	2	155292643	141866335
2	ocs			
	Workmen & Employee	9	4100888	3050234
	Govt (Customs)	1	3703295	3703295
	Goods & Services	10	34203191	11720856
	Total (2)	20	42007375	18474385
	Grand Total (1+2)	22	197300017	160340720
Note:	The HDFC Bank has not relinquished its security interest in favor of Liquidator and already sold the security			

6. The distribution has been made to the stakeholders after consultation with them in accordance with Sec 53 of the IBC, 2016. The distribution has been

made in three rounds on 30.09.2021 19.04.2022 and 01.06.2022. The entire funds have been distributed and the Liquidation / CIRP cost is paid.

7. The Liquidation account of the Corporate Debtor has been maintained at Bank of Baroda, Sector 56A, Faridabad, Haryana having account no 07870200001384 since Liquidation commencement date and all the realization and distribution/ payments have been made through that Bank account only. The Bank balance as on 15.09.2022 is Rs 3,72,269.91/-and cheques have been issued to meet the Liquidation cost, thus making account balance zero.
8. The Compliance certificate in Form-H as per Regulation 45(3) of the Liquidation Process Regulations, 2016 is prepared and filed along with the present application.
9. The Applicant had filed the application for exclusion of the lockdown period and extension of 180 days to the Adjudicating Authority in IA No 964/2022 which was allowed by this Adjudicating Authority vide order dated 12.09.2023.
10. The Applicant/Liquidator filed application(s) and various documents/Reports which was required to be submitted as per the provisions of IBC, 2016 read with relevant regulations.
11. This Adjudicating Authority vide order dated 05.07.2024 directed the Liquidator to file the Final report. In compliance of order dated 05.07.2024 the Applicant has prepared final report as per Regulations 45(3) of IBBI (Liquidation Process) Regulations, 2016. Copy of Final Report under Regulation 45 of the Liquidation Process Regulations, 2016 has been filed.
12. It is submitted by the Applicant that there is no Litigation pending against the Corporate Debtor to the best of knowledge, belief and effort of the Liquidator.

13. That in view of the facts and circumstances, it is submitted that all the assets of CD have been completely liquidated and/ or distributed to stakeholders as per the provisions of law and there is nothing left to be further liquidated.
14. Thus in view of the facts and circumstances, the Applicant prayed that the corporate debtor may be dissolved under Section 54 of IBC, 2016.
15. We have heard the submissions made by the Applicant, perused the Application and the compliance Affidavit filed by the Liquidator. Here, it is worthwhile referring to Section 54 of IBC, 2016 and Section and Regulation 45 IBBI (Liquidation Process) Regulations, 2016:

“Section 54 IBC-Dissolution of corporate debtor.

(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 debtor is registered.”

“IBBI (Liquidation Process) Regulations, 2016

45. Final report prior to dissolution.

- (1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor's assets have been liquidated.*
- (2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same*
- (3) The liquidator shall submit an application along with the final report and the compliance certificate in Form H to the Adjudicating Authority for –*
 - (a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or*
 - (b) for the dissolution of the corporate debtor, in cases not covered under clause (a).”*

16. That from the conjunct reading of the above provisions, this Adjudicating Authority is required to see that whether the assets of the Corporate Debtor are completely liquidated or not. In the instant case the Liquidator has furnished his Final Report and Form-H.

17. Since, in the instant case, all the assets of the Corporate Debtor have been liquidated and all the requirements of Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 have been fulfilled, therefore, we are inclined to allow the present Application under Section 54(2) of the IBC, 2016.

18. Accordingly, there being no other impediment, the present Application is allowed and the Corporate Debtor is ordered to be dissolved with immediate effect.

19. The Registry is directed to send a copy of this order passed under Section 54(2) to the ROC Delhi & Haryana, with which the Corporate Debtor is registered and the IBBI within seven days from the date of this order.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)