

DIVISION BENCH
COURT - II

(MENTIONING)

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/1694(KB)2018
IA(IBC)(DIS.)/4(KB)2024

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ORDER SHEET OF THE HEARING ON 11TH JULY 2024

IN THE MATTER OF	SENDOZ COMMERCIALS PRIVATE LIMITED VS KOHINOOR PAPER AND NEWSPRINT PRIVATE LIMITED
UNDER SECTION	IBC UNDER SEC 9

C O R R I G E N D U M O R D E R

1. This matter was not on Board today. However, upon mentioning, the matter was taken up on Board.
2. In the Pronouncement of Order dated **05.07.2024** in IA(IBC)(DIS.)/4(KB)2024 under C.P. (IB)/1694(KB)2018, some typographical errors have brought to our notice and therefore, the same are amended as under:
 - a) In **Para No. 7.** inadvertently written as “*Rs. 45.58 crores*” will be replaced by “**Rs. 48.58 crores**”.
 - b) In **Para No. 9.** inadvertently written as “*due to the omission*” will be replaced by “**granted exclusion**”.
 - c) **Paragraph 17** of the said Order will be entirely deleted. Therefore, the serial numbers from **Para 17** onwards be changed accordingly.
 - d) In **Para No. 21** of the said Order “*Corporate Debtor being dissolved*” will be replaced by “**Corporate Debtor’s liquidation process to be closed**”.
3. Rest of the Order will remain unchanged.

**D. Arvind
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH(COURT II)
KOLKATA**

IA (IB) (DIS) No. 4/KB/2024
in
CP (IB) No. 1694/KB/2018

*Under section 54 of the Insolvency and Bankruptcy Code, 2016 read
with Regulation 45 (3)(a) of the Insolvency and Bankruptcy Board of
India (Liquidation Process) Regulations, 2016.*

IN THE MATTER OF:

M/s. Sendoz Commercials Private Limited

... Operational Creditor

Versus

M/s. Kohinoor Paper and Newsprint Private Limited

... Corporate Debtor

And

IN THE MATTER OF:

**M/s. Rachna Jhunjhunwala, Liquidator of Kohinoor paper and
Newsprint Private Limited**

.... Applicant

Coram:

Smt. Bidisha Banerjee, Member (Judicial)

Shri D. Arvind, Member (Technical)

APPEARANCE:

For the Liquidator

Mr. Shaunak Mitra, Adv.

Ms. Shreya Chowdhury, Adv.

Mr. Priyadarshan Kumar, Adv.

Ms. Rachna Jhunjhunwala, Liquidator

For the Applicant in IA(I.B.C)/209(KB)2024

Ms. Mamta Binani, Adv.

Mr. Rohit Sharma, Adv.

Ms. Madhuri Pandey, CS

Date of Pronouncement: July 05, 2024.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH(COURT II)
KOLKATA**

IA (IB) (DIS) No. 4/KB/2024
in
CP (IB) No. 1694/KB/2018

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This court convened *via* hybrid mode.
2. This is an application filed under section 54(2) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with regulation 45(3) of the Insolvency and Bankruptcy Board of India [Liquidation Process] Regulations, 2016 (“Liquidation Process Regulations”) by the Liquidator of **M/s. Kohinoor Paper and Newsprint Private Limited** (“Corporate Debtor”) praying for dissolution of the Corporate Debtor.
3. This Adjudicating Authority *vide* order dated 12.07.2021, admitted the application filed by the RP for the commencement of Liquidation Process in respect of the Corporate Debtor and Mr. Uday Narayan Mitra was appointed as liquidator in the matter. Later he was replaced with Mrs. Ranchana Jhunjhunwala upon the decision of the Stakeholders Consultant Committee, herein referred as “SCC” which was approved by this Adjudicating Authority on 28.06.2021 .
4. This Adjudicating Authority *vide* an order dated 11.07.2022 excluded the period from July 12th, 2021, to February 28th, 2022, from the liquidation period and extended the liquidation period by six months, pursuant to which the liquidation was coming to an end on August 27th, 2023.
5. Public announcement of commencement of liquidation was made in Form ‘B’ in “**Financial Express**” (English) (All India edition) and “**Aajkal**” (Bengali) (Kolkata edition) on 5th August,2021 inviting proof of

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH(COURT II)
KOLKATA**

IA (IB) (DIS) No. 4/KB/2024
in
CP (IB) No. 1694/KB/2018

claims from the stakeholders of the Corporate Debtor in the specified forms and Form 'B' was also uploaded on the IBBI website.

6. The preliminary Report had also been filed by the Erstwhile Liquidator on 15th October 2021 has been **Letter-'K'**.

7. The sale notice for the corporate debtor as a going concern was issued by the former liquidator on June 25, 2022. The auction was scheduled for July 18, 2022, at a reserve price of Rs. 48.58 crores. However, on July 9, 2022, a corrigendum was published, changing the date of the auction from July 18, 2022, to August 8, 2022. However, the lack of a bid application form resulted in the auction failing at a reserve price of Rs. 45.58 crores.

8. This Adjudicating Authority vide an order dated 08.08.2022 placed a stay on auction process due to no further auction was conducted. The stay continued till it was vacated by order dated 13.09.2023.

9. The Adjudicating Authority vide an order dated 27.08.2023 that the liquidation period will expire on June 28, 2024, due to the omission of 545 days from March 1, 2022, to August 27, 2023.

10. That for a selling value of Rs. 53.45 crore, the corporate debtor was sold as a going concern under a private sale to M/s Dwarakapati Smelters Private Limited and its consortium partner Bhagwati Vintrade Pvt. Ltd. Section 53 of the code was followed in the proper distribution of the realisation when the sale was concluded by September 30, 2023, and a sale certificate was officially provided to M/s. Dwarakapati Smelters private Limited & Bhagwati Vintrade Pvt. Ltd.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH(COURT II)
KOLKATA**

IA (IB) (DIS) No. 4/KB/2024
in
CP (IB) No. 1694/KB/2018

11. Six of the seventeen SCC meetings that were held under the current liquidator's tenure were held overall during the process. A total of ten progress reports have been submitted to this adjudicating authority; the current liquidator has only submitted the ninth and tenth reports.

12. The First Progress Report of Liquidation was filed on 16th October, 2021 and the Tenth Progress Report was filed on 15th January 2024.

13. The Liquidator has filed a separation application for taking on record of final report has been annexed as **Letter 'Q'**.

14. On January 11, 2024, the ICICI Bank Howrah branch, which was operating under the name Kohinoor paper & newspaper private limited, was closed. The remaining balance was transferred to a liquidation account held by Bank of Baroda, which is maintained by the Bank of Baroda Park Sheet Branch. Through this account, all financial operations were completed, and all amounts were zeroed out.

15. The Liquidator thereafter filed Preliminary Report as per regulation 13 of the Liquidation Process Regulations on 15th October 2021 as per regulation 34(4) of the Liquidation Process Regulations.

16. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator has filed ten quarterly Progress Reports from time to time before this Adjudicating Authority , and the final report dated disclosing all the material facts and information with respect to the Liquidation process of the Corporate Debtor has been annexed as **Letter-'Q'** to the application. As per the mandatory requirement under

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH(COURT II)
KOLKATA**

IA (IB) (DIS) No. 4/KB/2024
in
CP (IB) No. 1694/KB/2018

regulation 45(3) of the Liquidation Process Regulations, the Liquidator has prepared a compliance certificate under prescribed 'Form H' and the same is annexed as **Letter-'P'** to the application.

17. The CoC observed that since realizable value of the assets of the Corporate Debtor is "**NIL**" and there are no funds to meet the full CIRP Cost as well as Liquidation Cost, there was no point in proceeding with liquidation and then apply for dissolution of the Corporate Debtor.

18. In terms of the right of any stakeholder **regulation 43 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016** shall remain protected, the provision reads as under:-

43. Return of money.

A stakeholder shall forthwith return any monies received by him in distribution, which he was not entitled to at the time of distribution, or subsequently became not entitled to.

19. Upon hearing the Liquidator and on perusal of the documents annexed to the application, it appears that the Corporate Debtor does not have any asset. There seems to be no reason to keep the liquidation afloat if there are no assets of the Corporate Debtor.

20. The Liquidator shall stand discharged from his responsibilities, subject to procedural compliances.

21. In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH(COURT II)
KOLKATA**

IA (IB) (DIS) No. 4/KB/2024
in
CP (IB) No. 1694/KB/2018

22. The Registry is directed to send email of the order forthwith to all the parties including GST authorities and their ld. Counsel for information and for taking necessary steps.

23. A copy of this order is to be submitted to the ROC to whom the company is registered by the liquidator.

24. Accordingly, **IA(IB)(DIS)No.4/KB/2024 along with CP (IB)No.1694/KB/2018** are disposed of.

25. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

26. File be consigned to the records.

**D. Arvind
Member (Technical)**

**Bidisha Banerjee,
Member (Judicial)**

The Order signed on this the 5th Day of July 2024.

V. Tiwari (LRA)