

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (Court – II)
KOLKATA**

IA(I.B.C)/93(KB)2023

C.P. (IB)/80(KB)2021

***An application under Section 54(1) of the Insolvency &
Bankruptcy Code, 2016 and Regulation 45 of the
Insolvency and Bankruptcy Board of India (Liquidation
Process) Regulations, 2016.***

In the matter of:

(1) Mallick Projects Private Limited a company incorporated under the Companies Act, 1956 having its registered Office at Shrutineer Apartment, 1st Floor 23/2/1/1, Bhagaban Chatterjee Lane, Howrah – 711101.

... Corporate Debtor

-And-

(2) Mr. Neeraj Kejriwal, Resolution Professional of: M/s. Mallick Projects Private Limited having his office at P – 178 CIT Scheme VI M Phoolbagan, 3rd Floor, Kolkata – 700054.

... Applicant

Date of pronouncing of the order: 02/07/2024

Coram:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)

Appearances (via video conferencing/physically):

Mr. Sanwal Tibrewal, Adv. : For the Suspended Board

Ms. Swastika Roy, Adv. :

Mr. Ratul Das, Adv. : **For the Resolution Professional**
Ms. Sutapa Mitra, Adv. :
Mr. Niraj Kejriwal, RP-in-Person :

ORDER

Per: D. Arvind, Member (Technical)

1. The court convened through hybrid mode.
2. Ld. Counsel/Authorised Representative appearing on behalf of the parties were heard in extenso.
3. This application **IA(I.B.C)/93(KB)2023** has been preferred to seek the following reliefs, inter alia: -

(a) Issue necessary Orders for Dissolution of the Corporate Debtor as approved in the 6th CoC meeting dated 12.11.2022;

(b) Such further or other order or orders be passed, and/or direction are given as this Adjudicating Authority may deem fit and proper;

4. **Factual matrix of the case is as under: -**

(a) This application has been filed by **Mallick Projects Private Limited** under Section 10 of the Insolvency and Bankruptcy Code, 2016 and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of the Corporate Insolvency Resolution Process on the ground that the Corporate Debtor is indebted as disclosed in the petition and there was a default in payment.

(b) By an Order dated 25.11.2021 NCLT Kolkata Bench admitted the Corporate Debtor into CIRP.

- (c)** It is submitted that the petitioner was confirmed as the RP and has convened the CoC meetings from time to time and submitted Progress Report before this Tribunal.
- (d)** It is further submitted that in the 5th Meeting of the CoC held on May 11, 2022 the proposal to recommended liquidation of the CD was approved and thereafter the petitioner filed a petition on 24th May, 2022 having IA(I.B.C)/485(KB)2022 for liquidation of Corporate Debtor under Section 33(2) of Insolvency and Bankruptcy Code, 2016.
- (e)** The liquidation application was heard and passed on 10th November, 2022 and the Bench directed the petitioner to seek CoC instruction regarding Liquidation or Dissolution of CD.
- (f)** In the 6th Meeting of the CoC held on November 12, 2022 both the option of Liquidation and Dissolution was discussed. Since there was no asset in the company the CoC was not willing to bear the Liquidation expenses and resolved for dissolution of the Corporate Debtor without going into liquidation process. We have been shown the details of the Bank Account of the Corporate Debtor which has “Zero Balance”.
- (g)** The resolution for dissolution of the Corporate Debtor was approved by 100% voting share.
- (h)** The liquidation application was again heard on 23rd December, 2022 when the petitioner seeks permission to withdraw the liquidation application being no. IA(IBC)/485(KB)2022 and after heard this Tribunal allow to

withdrawn IA(IBC)/485(KB)2022 with a liberty to file an application for dissolution as approved by the CoC.

(i) In view of the resolutions adopted by the CoC, necessary Orders be passed for dissolution of the Corporate Debtor.

5. Hence, the rival contentions were noted.

6. At this juncture, we would go through the various provisions of the Insolvency & Bankruptcy Code dealing with the dissolution of the Corporate Debtor which are as follows: -

**Section 54 of the Insolvency & Bankruptcy Code
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.”

**Rule 45 of Insolvency and Bankruptcy Board of India
(Liquidation Process) Regulations, 2016:
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) *or the dissolution of the corporate debtor, in cases not covered under clause (a).*

7. We would note that the Applicant in compliance to the Code and its Regulations has discharged his duties diligently and has made several efforts for the maximum realization from the assets of the corporate debtor. The liquidation Process is fully complete. Thus, the Liquidator in compliance has filed the present application under Section 54 read with Regulation 45 of IBBI (Liquidation Process) Regulation, 2016, seeking an Order of dissolution of the corporate debtor.

8. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator has filed six quarterly Progress Reports from time to time before this Adjudicating Authority and also the final report 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, the Liquidator has prepared a compliance certificate under prescribed '**Form H**'. Both the final report and compliance certificate under form H is annexed with the application and marked as annexure **Annexure – 'O'**.

9. A conjoint reading of these the statutory provisions as noted supra, mandates upon completion of the liquidation of the assets of the corporate debtor, filing of subsequent application to the Adjudicating Authority to seek dissolution under Section 54 of the IBC where the assets of the Corporate Debtor either have been completely liquidated after distribution among the Stakeholders or for early dissolution under Regulation 14 of the Liquidation Process Regulations, or where the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process, the liquidator may apply to the Adjudicating Authority for early dissolution.
10. In view of the above facts and circumstances, this Adjudicating Authority in exercise of the powers conferred under sub-section (2) of section 54 of the Code hereby Orders dissolution of the Corporate Debtor, **Mallick Projects Private Limited** from the date of this Order, thus stands **dissolved** and consequently, the Liquidator stands relieved from his responsibilities, subject to procedural compliances.
11. The Liquidator and the Registry are hereby directed to serve a copy of this Order upon the Registrar of Companies, West Bengal, 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.
12. Further, the Liquidator is directed to serve a copy of this Order upon the **Insolvency and Bankruptcy Board of India (IBBI)** within fourteen days of receipt of this order. The IBBI shall take further necessary action upon receipt of a copy of this Order.

13. All the assets of Corporate Debtor have been disposed of and distributed in accordance with the code and rules and regulations framed thereunder and the final report has been submitted.
14. **IA(I.B.C)/93(KB)2023** along with **C.P. (IB)/80(KB)2021** is **allowed** with the above directions and the **IA(I.B.C)/93(KB)2023** and **C.P. (IB)/80(KB)2021** are hereby **disposed of** accordingly.
15. 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.
16. Certified Copy of this Order may be issued, if applied for with the Registry, upon compliance of all requisite formalities.
17. File be consigned to records.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on: 02nd of July, 2024.

Ar. [steno]