

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

IA(I.B.C)/1321(KB)2024

C.P. (IB)/458(KB)2019

***An application under Section 54 read with Section 60(5) of
the Insolvency & Bankruptcy Code, 2016 and read with
Rule 11 of the National Company Law Tribunal Rules, 2016
and Regulation 45 of the Insolvency and Bankruptcy Board
of India (Liquidation Process) Regulations, 2016.***

In the matter of:

(1) RASPL INDUSTRIES PRIVATE LIMITED.

... Operational Creditor

-Versus-

(2) HARIHAR INTERNATIONAL PRIVATE LIMITED.

... Corporate Debtor (In Liquidation)

-And-

**(3) MR. ABHIT KUMAR SINGH, LIQUIDATOR OF HARIHAR
INTERNATIONAL PRIVATE LIMITED (IN LIQUIDATION), working for
gain at Vishnu Vatika, Block – 4, Flat – 1A, 289, G.T. Road,
Opposite Ganguly Street, Belur, Howrah – 711 202.**

... Applicant/Liquidator

Date of pronouncing of the Order: 22/07/2024

Coram:

SMT. BIDISHA BANERJEE HON'BLE MEMBER (JUDICIAL)

SHRI D. ARVIND HON'BLE MEMBER (TECHNICAL)

Appearances (via video conferencing/physically):

Ms. Shreya Choudhary, Adv.

: For the Liquidator

Mr. Abhit Kumar Singh

: Liq.-in-Person

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The Court convened through hybrid mode.
2. Ld. Counsel/Authorised Representative appearing on behalf of the liquidator was heard in extenso.
3. This application **IA(I.B.C)/1321(KB)2024** has been preferred to seek the following reliefs, inter alia: -

*(a) Dissolution of the Corporate Debtor under Section 54 of IBC;
and*

*(b) Such further and/or other Order or Orders as this Tribunal
may deem fit and proper;*

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

(a) The Operational Creditor had filed this petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC") being C.P. (IB)/458(KB)2019 for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") of **Harihar International Private Limited** herein the Corporate Debtor. This petition was admitted *vide* our Order dated 31st August, 2022.

(b) The applicant submits that the Interim Resolution Professional in terms of Section 15 of IBC made 'Public Announcement' in 'Form - A' and the same was published on 03rd September, 2022 for inviting claims of the creditors. In response to the said public announcement, only two

creditors, i.e., (i) Assistant Commissioner, CGST & CX, DIVISION – V, Jamshedpur having 94.68% voting share and (ii) RASPL Industries Private Limited having 5.32% voting share.

(c) In the 6th CoC meeting held on 13th February, 2023, the CoC in its commercial wisdom opined that since the Corporate Debtor had no assets and/or any revenue, it would be prudent to liquidate the Corporate Debtor considering the nature of business of the Corporate Debtor.

(d) In terms of our Order dated 02nd August, 2023 the Applicant was appointed as the Liquidator of the Corporate Debtor (in liquidation). Thereafter, the Applicant made a **‘Public Announcement’** published in English Newspaper **“Morning India, Ranchi”** and Hindi Newspaper **“Sanmarg, Jharkhand”** under **‘Form B’** of **Schedule II** of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 on 08th August, 2023.

(e) The 1st, 2nd, 3rd, 4th and 5th Stakeholders’ Consultation Committee scheduled from time-to-time, i.e., held on 09.09.2023, 12.10.2023, 09.11.2023, 23.02.2024 and 05.04.2024.

(f) And also, the liquidator filed its progress report before this Adjudicating Authority from time-to-time.

(g) By an Order dated 22nd March, 2023, this Adjudicating Authority was please to dispose of I.A. (IB) 2005/KB/2023 with the observation that “Since, CGST and CX, Jamshedpur has not responded to various communications

on this, we give liberty to the Liquidator herein to file for dissolution”.

(h) An application being IA(IBC) No./570(KB)2023, in terms of Order dated 22nd March, 2024 was pleased to direct the Assistant Commissioner of CGST and CX, Division – V, Jamshedpur to pay the entire sum towards CIRP cost as well as fees of the Resolution Professional, i.e., Rs. 1,00,000/- (Rupees One Lakh Only) per month from 31st August, 2022 till 02nd August, 2023 within a period of four weeks.

(i) The liquidator shared the minutes of the 5th Meeting of SCC along with the liquidation expenses incurred by an email dated 08th April, 2024. It was also mentioned in the said e-mail that the balance available with the Company was Rs. 1,21,551.84/-. The liquidator regarding approval of the minutes of the 5th Meeting of SCC received by an e-mail dated 15th April, 2024 from GST Authority *inter alia* requesting for bank statement and bill for liquidation. The liquidator duly shared the copies of the documents sought by the CGST Authority by an e-mail dated April 19, 2024. Thereafter, the liquidator issued e-mails dated April 23, 2024 and May 06, 2024 requesting for confirmation from the GST Authority. Finally, by an e-mail dated May 15, 2024, the CGST Authority issued a confirmation *inter alia* stating that: -

“Please refer to your mail dated 06.05.204. In this regard this is to inform you that competent authority has approved for recovery of the expenses incurred by you amounting to Rs. 1,11,820/- from the balance

*available in the bank account of Corporate Debtors
(M/s. Harihar International Pvt. Ltd.)”*

- (j)** The total estimated cost of liquidation is Rs. 8.4 lakhs. The applicant stated that the total CIRP cost incurred by the Corporate Debtor was Rs. 11,68,792/- lakhs which still due to be paid by Commissioner of CGST and CX, Division – V, Jamsshedpur. The applicant also submitted that the realization from assets of the Corporate Debtor would be Rs. Zero (0).
- (k)** The liquidation period would be ending on 02nd August, 2024 and the cost of liquidation is more than the cost of realization of the assets. It is submitted on behalf of the applicant that continuation of the liquidation process would not serve any purpose and would not lead to incurring of further expenses.
- (l)** The liquidator has closed the only Bank Account of the Corporate Debtor maintained with Punjab National Bank, Agora Colony, being Account No. 0412002100027861 after the balance of the account was reduced to 0.00. In this regard, a copy of the letter dated 28th May, 2024 issued by the liquidator to the Bank requesting for closure of the account, the Bank account closure confirmation issued by the said Punjab National Bank and the statement showing the balance as 0.00. on 30th May, 2024.

229



Branch: Argora Colony Ranchi

30/05/2024

To Whom it may Concern

This is to certify that Current account no-0412002100027861 in the name of Harihar International Pvt Limited since closed on 30/05/2024 at ours.


Manager


(m) It is evident from the 'Form H' that assets as per Asset Memorandum and Final Sale Report are as under: -

3. The details of the assets as per Asset Memorandum and Final Sale Report are as under: No Assets Available

Sl. No.	Assets	Mode of Sale	Estimated Liquidation Value	Realisation Amount (Rs.)	Date of Transfer to Liquidation Account
(1)	(2)	(3)	(4)	(5)	(6)

4. (a) Liquidation value of the liquidation estate: No Such Liquidation Estate Formed
(b) Amount realised from sale of liquidation estate: Nil
(c) The amounts distributed to stakeholders as per section 52 or 53 of Code are as under:



211

(Amount in Rs.lakh)

Sl. No.	Stakeholders*under section53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed(%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	(a). CIRPCosts			0		
2	(a): Liquidation Costs			0		
3	(b)(i)					
4	(b)(ii)					
5	(c)					
6	(d)					
7	(e)(i)					
8	(e)(ii)					
9	(f)					
10	(g)					
11	(h)					
Total				0		

*If there are sub-categories in a category, please add rows for each sub-category.

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, **HARIHAR INTERNATIONAL 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)/1321(KB)2024** along with **C.P. (IB)/458(KB)2019** is **allowed** with the above directions and the **IA(I.B.C)/1321(KB)2024** and **C.P. (IB)/458(KB)2019** 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. Urgent 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: 22nd of July, 2024.

Ar. [steno]