

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.307

IA/403(AHM)2023 in CP(IB) 383 of 2019

Proceedings under Section 54(1) IBC r.w Reg. 45(3)(b) IBBI (Liquidation Process) Regulations, 2016

IN THE MATTER OF:

Tejas K Shah Liquidator of Bansal Infracon Pvt Ltd

.....Applicant

.....Respondent

Order delivered on: 17/05/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH - COURT-I**

IA(Dis) No.403 of 2023 in CP(IB) No.383 of 2019

(An application filed by the Liquidator for dissolution of the Corporate Debtor under section 54(1) of the Insolvency and Bankruptcy Code, 2016 r.w. Regulation 44 to 45 of the IBBI (Liquidation Process) Regulations, 2016 and Rule 11 of the NCLT Rules, 2016)

In the matter of **M/s. Bansal Infracon Private Limited**

Mr. Tejas Shah
Liquidator of M/s. Bansal Infracon Private Limited
Having address at:
B-201, Narayankrupa Avenue,
Opp. Prernatirth Derasar, Jodhpur,
Satellite, Ahmedabad,
Gujarat-380006.

... Applicant Liquidator

Order Pronounced on 17.05.2024

CORAM:

Mr. SHAMMI KHAN, MEMBER (JUDICIAL)
Mr. SAMEER KAKAR, MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant: Mr. Sumit Parikh, Ld. Advocate a.w.
Mr. Tejas K. Shah, Ld. Advocate

O R D E R
[Per: Bench]

1. The present application being I.A.(Dis)403/NCLT/AHM/2023 in CP(IB):383/7/NCLT/AHM/2019 has been filed by Mr. Tejas Shah, Liquidator of the Corporate Debtor, M/s. Bansal Infracon Private Limited, under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 for an order of dissolution by seeking relief as follows:

“a) Your Lordship may be pleased to allow the present application;
b) Your Lordship may be pleased to pass an order under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 for dissolution of M/s. Bansal Infracon Private Limited.
c) Your Lordship may be pleased to grant any other relief as may deem fit in the interest of justice.”

2. It is Submitted that the Petition for Corporate Insolvency Resolution Process was filed by one Mr. Kanada Hiren Mahendrabhai, under Section 9 of the I.B. Code, 2016 against the Corporate Debtor M/s. Bansal Infracon Private Limited bearing CP(IB) No.383/9/NCLT/AHM/2019. Pursuant to which, an order for initiation of CIRP was passed by this Bench vide order dated 29.11.2021 wherein, Mr. Tejas Shah, the Liquidator herein, was appointed as the Interim Resolution Professional.
3. It is submitted that the Corporate Debtor, M/s. Bansal Infracon Private Limited is a company incorporated on 26.02.1998 under the provisions of the Companies Act, 1956 bearing CIN: U27100GJ1998PTC107235 and having registered office at: C-6, Summeru Township, Opp. Varahi Soc, Ghogha Road, Bhavnagar, Gujarat – 364001. It is stated that the company was engaged in the activities of ship breaking.
4. It is stated that the Operational Creditor, one Mr. Kanada Hiren Mahendrabhai entered into an agreement of business transactions for providing manpower to the Corporate Debtor

Company for the ship breaking activities and raised certain outstanding with the Corporate Debtor Company. It is said that the total outstanding /default was of Rs.8,20,000/-.

5. The Coc in its 3rd meeting held on 02.03.2022 unanimously resolved to liquidate the Corporate Debtor. The RP, the Liquidator herein, Mr. Tejas K. Shah, thereafter, filed an IA No.259 of 2022 under Section 33 of the I.B. Code, 2016 before this Bench for the liquidation of the Corporate Debtor. Which was allowed by this Bench vide its order dated 31.05.2022. Mr. Tejas Shah was appointed as liquidator by the order. The applicant annexed copy of the liquidation order with the present application as Annexure-‘C’.
6. It is submitted that the Liquidator then made the public announcement in the prescribed Form-B as required under the Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 in English Newspaper “Financial Express” and in Gujarati Newspaper “Sandesh” in Bhavnagar edition on 08.06.2022. A copy of which is annexed as Annexure-‘C’ to the present application.
7. It is stated that the Applicant prepared a list of stakeholders in compliance of Regulation 31 of the IBBI (Liquidation Process) Regulations, 2016 and filed the same with this Bench on 10.08.2022. A revised list was also filed on 07.03.2023. The details of the stakeholders as submitted by the applicant are as under:

Sr. No.	Name of the Creditor	Form	Amount Admitted
1	Hiren Mahendra Kanada (Operational Creditor)	C	8,20,000/-
2	Income Tax Department, Bhavnagar, Gujarat (Statutory Authority)	C	80,75,22,240/-
3	State Tax Department Bhavnagar, Gujarat	C	3,17,10,360/-
4	Employee Provident Fund Organization	C	14,442/-

The applicant has annexed copy of the revised list of stakeholders dated 07.03.2023 as Annexure-J of the Final Report dated 04.04.2023 at Annexure-A of the present Application.

8. It is submitted that in accordance with the Regulation 41 of the Liquidation Regulation, the applicant has opened a new Bank Account in the name of the Corporate Debtor 'Bansal Infracon Private Limited (In Liquidation)' with ICICI Bank, Bodakdev Branch, bearing A/c number: 230805001669.
9. The applicant stated that in accordance with the Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016, he has prepared 1st Progress Report for the period 31.05.2022 to 30.06.2022 and submitted on 15.07.2022. A copy of which is annexed as Annexure-D of the final report dated 04.04.2023 as Annexure-A of the present application.

10. It is submitted that as per the Regulation 13 of the IBBI (Liquidation Process) Regulation 2016 prepared and submitted his preliminary report on 06.08.2022. The applicant further submitted Asset Memorandum on 06.08.2022. The copies of preliminary report, asset memorandum and list of stakeholders are annexed as Annexure-E of the Final Report dated 04.04.2023 at Annexure-A to the present application.
11. The applicant submitted Second Progress Report for the period between 01.07.2022 to 30.09.2022 and submitted on 12.10.2022. A copy of the Second progress report is annexed as Annexure-F of the final report dated 04.04.2023 as Annexure-A to the present application.
12. As submitted, the third progress report for the period between 01.10.2022 to 31.12.2022 was submitted on 10.01.2023. A copy is annexed as Annexure-I to the final report as Annexure-A to the present application.
13. As submitted, the applicant submitted the fourth progress report for the period between 01.01.2023 to 31.03.2023 is submitted as Annexure-L of the final report dated 04.04.2023 as Annexure-A of the present application.
14. As submitted, the applicant as a Liquidator wrote a letter to the Bansal Fin Trade Private Limited for recovering amount lying due to the Corporate Debtor and successfully recovered Rs.11,500/- which was said to be deposited in the liquidation

account of the Corporate Debtor. Further, the Liquidator also recovered an amount of Rs.38,200/- from Mr. Hiren Kanada, the Operational Creditor, for the charges to meet the CIRP as well as liquidation expenses. The said amount was also said to be deposited in the liquidation account of the Corporate Debtor. It is submitted that the Corporate Debtor does not have any tangible or intangible assets.

15. The applicant conducted second meeting with the stakeholder's Consultation committee on 23.03.2023 and suggested to file an application for Dissolution of the Corporate Debtor. The relevant Agenda wise details are reproduced by the applicant on page no.11 of the application. It is stated as:

“Accordingly, the members of SCC having 99.98% of voting power have dissented the resolution, member having 0.10% of voting power has assented the resolution and member having 0.001% of voting power has abstained from voting.”

16. It is submitted that the applicant/liquidator has power under Section 35(1)(n) of the I.B. Code to take the decision for the dissolution of the Corporate Debtor. It is stated that the liquidator sought opinion from the stakeholders in the second meeting of the Stakeholders Consultation Committee on 21.03.2023.

17. The State Tax Department has filed a reply vide diary no.D3870 on 06.05.2024 affirmed by one Ms. Gitaben G.

Chauhan, a serving employee in the State Tax Office. It is stated in Pare-7 of the reply that:

“That in pursuance to the order dated 01.03.2024, the earlier state tax officer had addressed a reply on 05.03.2024 to this Hon’ble Bench stating that the department has no objection, if necessary order is passed by the Hon’ble Tribunal, Ahmedabad Bench.”

18. Additional report regarding outstanding dues on behalf of the Income Tax Department was filed by the counsel Ms. Maithili D. Mehta vide diary no.D109 on 12.03.2024. It is stated that total Rs.85,78,81,686/- to be recovered from the Corporate Debtor. In a letter of Asst. Commissioner of I.Tax, Bhavnagar circle-1, written to the counsel, Para-4 of the letter mentions as:

“4. The Income Tax Department has filed objection to the dissolution/winding up of the company, M/s. Bansal Infracon Private Limited (in Liquidation before NCLT) till the recovery of the outstanding demand from the company. Moreover, in view of the pendency of penalty proceeding in the case, dissolution/winding up is being objected.

5. As per the departmental records as well as the information available on ITD system, there is no assets with the assessee for recovery of outstanding demand. However, the recovery can also be made from the personal assets of the directors of the company who were directors at any time during the relevant previous year by invoking the provisions of section 179 of the Income Tax Act. In this regard, the notices u/s.179 of the Act have been issued to the then directors of the assessee company. The copies of the notices issued to the then directors are enclosed for kind reference.”

19. It is observed that State Tax Department had initially objected for dissolution, however, on 05.03.2024 they have consented.
20. The Income Tax Department is objecting to the dissolution. However, it is seen that they have too confirmed that there are no assets with the Corporate Debtor and for offences they have issued notices to the director.
21. In view of the fact that the Corporate Debtor has no assets left to be liquidated and as all the assets have been realised and distributed, nothing remains in the Corporate Debtor.
22. The applicant tabulated the receipts and payment account during the liquidation process as under:

Receipts	Amount (In Rs.)	Payments	Amount (In Rs.)
Opening bal. with ICICI Bank	NIL	CIRP Expenses IRP & RP Fees Advt. Exps. (Public Announcement in Form A & Form G) Valuation fees	6,367 21,693 10,000
Amount recovered from Bansal Fin trade Pvt Ltd	11,500	<u>Liquidation Expenses</u> Advt. exps. in (Form-B) ROC fees NCLT Fees	9,240 1,200 1,200
Amount received from Operational creditor towards CIRP and Liquidation exps.	38,200		
		Closing Balance with ICICI Bank	Nil
Total	49,700/-		49,700/-

23. As submitted by the applicant, there are no other pending litigations against the Corporate Debtor before different courts/ Tribunals/forums.

24. It is submitted that the applicant/ liquidator conducted and completed the liquidation process of the Corporate Debtor. It is stated that there are no assets in the name of the Corporate Debtor. Further, all the assets of the Corporate Debtor are liquidated and there being no other assets to be utilized for recovery of dues of the creditors/ stakeholders, the applicant conducted meeting of stakeholders consultation committee on 21.03.2023, wherein, the SCC had not resolved for the dissolution of the Corporate Debtor Company. Therefore, as per Regulation 31A(10) of the IBBI (Liquidation Process) Regulation, 2016, the applicant had apprised the decision of the stakeholders to this Bench through an application.
25. It is submitted that pursuant to Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 44 and 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the process of liquidation was completed and the present application has been made along with final report of liquidator of Dissolution of liquidation process in terms of the Corporate Debtor, **M/s. Bansal Infracon Private Limited** along with asset sales report. The asset sale report, Form-H and Final Report are annexed to the present application as **Exhibit-A (Colly)**.
26. The details of the relevant compliances as mandated under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 read with IBBI (Liquidation Process) Regulations, 2016 and

the details of realisation as well as distribution are listed in a tabulated form by the applicant as under:-

Sr. No.	Compliance	(Yes / No)	Reference & Page No.			
1.	(Regulation 12) Public Announcement in Form B within five days of the appointment of the Liquidator	Yes	Dated 08.06.2022 Page No. 46			
2.	(Regulation 35(2)) Appointment of Registered Valuers in matters where no valuation conducted during the CIRP.	No	Since the business of the CD is closed and RP had appointed Reg. Valuer for the Class of Fin. Assets in CIRP Process and therefore no Reg. Valuer were appointed in Liquidation Process.			
3.	(Regulation 31(2)) Filing the List of Stakeholders within forty-five days of LCD	Yes	Dated 05.08.2022 & 07.03.2023 Page No. 69 Page no. 127-128			
4.	(Regulation 31A) Constitution of SCC within sixty days from LCD.	Yes	Dated 30.07.2022 Page No. 69-70			
5.	(Regulation 13) Filing 'Preliminary Report' before the Adjudicating Authority within seventy-five days from the LCD.	Yes	Dated 05.08.2022 Page No. 59 to 62			
6.	(Regulation 34) Preparation of Asset Memorandum within seventy-five days from LCD	Yes	Dated 05.08.2022 Page No. : 63-66			
7.	(Regulation 41) Opening of Bank Account in the name of the Company followed by the words 'in liquidation' in a Scheduled Bank.	Yes	Dated 07.07.2022 Page No. 171 as prescribed in Form H Sr. No. 15			
8.	Proof of Closure of the above Bank Account and any other account in the name of the Company.	No				
9.	(Regulation 15) Quarterly Progress Reports and proof of filing the same before the Adjudicating Authority.	Yes	1 st 15.07.22 (47-56)	2 nd 12.10.22 (73-80)	3 rd 10.01.23 (106-124)	4 th 04.04.23 (154-170)
10.	(Regulation 36) Asset Sale Report after sale of Assets.	N/A	As there were no assets in the name of CD			
11.	(Regulation 42(2)) Proof of distribution within ninety days from the receipt of realization.	NA				
12.	(Regulation 45(3)) 'Final Report' along with Compliance Certificate in Form H to be filed along the Application.	Yes	19-175			
13.	(Regulation 5(1)(e)) (Compilation of the Minutes of SCC).		1 st 22.12.22 (81-88)	2 nd 23.03.23 (129-151)		
14.	(Regulation 15) Audited accounts of receipts and payments. (Page No. of the Auditor Certificate in the Application Typeset)	Yes	Page No. 162			
15.	(Regulation 37) Completion of liquidation process within one year from LCD or	Yes	Within 1 Year			

	extension if any, date of the order & period.		
16.	To furnish of details of any application pending before the Adjudicating Authority if any.	No	
17.	Whether any application pending before this Tribunal in relation to the Corporate Debtor, if any. (Details to be furnished)	No	

18. REALISATION

Sr. No.	Assets	Mode of Sale	Estimated Liquidation Value	Realisation amount (In Rs.)	Date of Transfer into Liquidation Account
(1)	(2)	(3)	(4)	(5)	(6)
1	Realised from the Loans and Advances		0	11,500/-	13.09.2022

19. DISTRIBUTION

Sr. No.	Stakeholders* under section 52 and 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CIRP Cost	73,693/-	73,693/-	38,060/-	51%	Dist. From Contribution by Operational Creditor
2.	Liquidation Cost [Sec. 53(1)(a)]	36,640/-	36,640/-	11,640/-	31%	Rs. 11,500/- recovered from Loans & Advances by Operational Creditor
3.	Workmen's Dues [Sec. 53(1)(b)(i)]					
4.	Debts of Secured Creditors [Sec. 53(1)(b)(ii)]	0	0	0	0	

	Wages and Unpaid Dues to Employees [Sec. 53(1)(c)]					
6.	Debts of Unsecured Financial Creditors [Sec. 53(1)(d)]					
7.	Government Dues + Amount Unpaid following Enforcement of Security Interest [Sec.53(1)(e)]	84,10,85,956/-	84,10,85,956/-	0		
8.	Any remaining Debts and Dues [Sec. 53(1)(f)]	8,20,000/-	8,20,000/-	0		
9.	Preference Shareholders [Sec. 53(1)(g)]					
10.	Equity Shareholders [Sec.53(1)(h)]					
Total		84,20,16,289/-	84,20,16,289/-	49,700/-	0.006	

27. A purshis was filed vide diary no.D3725 on 06.05.2024 for the submission of certificate for closure of Bank Account of the Corporate Debtor as maintained with the ICICI Bank. It is stated that the closure of the Bank Account was received on 03.05.2024. A Certificate dated 03.05.2024, in this regard, is also attached. The transaction detail of the account is also enclosed with the certificate.

28. We heard the Learned Counsel for the Applicant and perused the material available on record. At this juncture, it is relevant to point out Section 54 of the IBC, 2016 provides as follows:-

Section 54:

“(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.”

29. From the averments made in the Application along with the perusal of the final report and the Compliance Certificate filed in Form-H by the Applicant, it is seen that the Corporate Debtor has been completely liquidated. No assets are left with for any further disposal. Since the assets of the Corporate Debtor are completely liquidated, there remains nothing and no applications are pending in the matter. In the circumstances, as averred and as prayed for by the Applicant that an order for dissolution is to be passed by this Tribunal under Section 54(1) of the Code.

30. Accordingly, in exercise of the powers conferred under Section 54(1) of IBC, 2016. Hence, we pass the following order:-

i) The Adjudicating Authority in exercise of powers conferred to it under Section 54(2) of the IBC, 2016 orders that the Corporate Person (Applicant Company) viz., **M/s. Bansal Infracon Private Limited** having CIN

No. **U27100GJ1998PTC107235** stands dissolved from the date of this order.

- ii) Consequently, the liquidator Mr. Tejas K. Shah is hereby discharged from his duties and responsibilities as the liquidator of the Corporate Debtor.
- iii) The Liquidator shall preserve physical or electronic copy of the reports, registers, and books of account referred to in Regulations 45A of the IBBI (Liquidation Process) Regulations, 2016 for at least eight years after the dissolution of the Corporate Debtor, either with himself or with an information utility.
- iv) The Registry of this Bench and the liquidator is directed to serve a copy of this order to the RoC concerned, Income Tax Department and also to the IBBI within seven days from this order for information and necessary action.

16. In terms of the above, **IA(Dis.)No.403 of 2023** in **CP(IB) No. 383/9/AHM/2019** is **allowed and stands disposed of**.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)

AT