

IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH-COURT V

I.A. 3334/2023

IN

C.P.(IB)/1351(MB)2019

Under Sub-Section (1) of Section 54 of Insolvency &
Bankruptcy Code, 2016

Arihant Nenawati

..... Applicant/Liquidator

In the matter of

Thakorbhai Keshav Prajapati & Ors.

B 6, Silver Arc CHSL, J. B. Nagar,

Andheri East, Mumbai - 400059

..... Operational Creditor

Vs.

M/s Heatshrink Technologies Limited

Plot No. 112, 13th RM MIDC, Marol,

Andheri East, Mumbai – 400093.

..... Corporate Debtor

Order delivered on: 24.07.2024

Coram:

Hon'ble Ms. Reeta Kohli, Member (Judicial)

Hon'ble Ms. Madhu Sinha, Member (Technical)

Appearance:

For the Applicant: Adv. Haris A Khan (VC)

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ORDER

1. The present application is filed by Mr. Arihant Nenawati, Liquidator under Sub-section (1) of Section 54 of the Insolvency and Bankruptcy Code, 2016 for seeking the following prayers:
 - a. *That the Ld. Adjudicating Authority be graciously pleased to exclude the period of 365 days from the liquidation period thereby granting an extension of 365 days; and*
 - b. *That the Ld. Adjudicating Authority be graciously pleased to extend the period of liquidation by six months or such other time as it may deem fit; and*
 - c. *That the Ld. Adjudicating Authority be graciously pleased to pass an order of dissolution of the corporate debtor; and*
 - d. *That the Ld. Adjudicating Authority be graciously pleased to direct all the statutory, non-statutory authorities/corporation/bodies to act on the order of dissolution; and*
 - e. *Such other orders be passed, or directions be made as the Ld. Adjudicating Authority may deem fit in the interest of justice, equity or good conscience.*
2. The Operational Creditor filed a C.P.(IB) No. 1351/2019 under Section 9 of the Code against the Corporate Debtor for initiation of CIRP and the said petition was admitted on 02.01.2020 directing initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor.
3. The Ld. Counsel for the applicant submits that the meeting of COC was held on 16.07.2020 and it was resolved with requisite majority to liquidate the assets of

the corporate debtor. The Adjudicating Authority was pleased to pass order for liquidation vide its order dated 11.11.2020. The applicant was appointed as the liquidator.

4. The Liquidator published the public announcement on 26.11.2020 in English and Marathi newspapers calling upon the stakeholders to submit their respective claims on or before 24.12.2020. The liquidator after duly verifying all the claims received pursuant to the said publication, prepared the list of stakeholders and constituted the Stakeholders Consultation Committee. The liquidator published the list of Stakeholders Consultation Committee in English & Marathi newspapers as mandated by the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
5. The Ld. Counsel for the applicant submits that, in consonance with the requirements of the Code and liquidation Regulations, the Liquidator prepared and submitted the Preliminary report on 15.02.2021.
6. The Liquidator constituted the 'Liquidation Estate' of the Corporate Debtor as mandated by the provisions of the Code which mainly consisted of one immovable property, cash & cash equivalents. Further, the Liquidator in compliance with the Liquidation Regulations prepared and submitted the Asset Memorandum on 15.02.2021.
7. The Liquidator, in consultation with the SCC, published the first e-auction sale notice on 04.03.2021 in one English and one Marathi newspaper for the e-auction

sale of 'office premises of Dalamal Tower' at reserve price of Rs. 1,38,00,000/-.

Pursuant to the publication of the first e-auction sale notice, the Liquidator received various enquiries from the prospective bidders. However, no bids were received qua the said property.

8. The Liquidator, in consultation with the SCC, published the second e-auction sale notice on 23.06.2021 in one English and one Marathi newspaper for the e-auction sale of 'office premises at Dalamal Tower' at a reduced reserve price of Rs. 1,16,00,000/-. In the e-auction two bidders participated and one Anka Infrastructure and Realty Limited was declared as highest bidder with the final bid of Rs. 1,18,00,000/-. Accordingly, the liquidator and the successful auction purchaser entered into and executed a sale deed dated 31.03.2022. Upon receipt of the entire sale consideration, the Liquidator issued a letter dated 19.10.2021 confirming the receipt of payment of sale consideration together with interest.
9. The Ld. Counsel for the applicant submits that the entire liquidation estate of the corporate debtor is successfully liquidated by the Liquidator. The sale proceeds of liquidation were distributed strictly in accordance with the waterfall mechanism provided in Section 53 of the Code. The sale proceeds were exhausted in satisfying the claim of the secured financial creditor who is accorded first priority in the waterfall mechanism. Therefore, it is appropriate to dissolve the Corporate Debtor in terms of Section 54 of the Insolvency and Bankruptcy Code, 2016.

10. At this juncture, it is appropriate to read Section 54 of the Insolvency & Bankruptcy Code, 2016. The said Section is quoted below for the ready reference:

“Section 54: 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 subsection (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”.

11. The Applicant states that in compliance of Regulation 45 of The Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, he filed the Final Report and the same is also annexed to the present Interlocutory Application as **Exhibit “M”**. The Compliance Certificate (FORM H) duly certified by the Liquidator [Under Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016] is duly annexed with the Interlocutory Application as **Exhibit “L”**.

12. The Ld. Counsel for the applicant further submits that, all receipts and payments *qua* the liquidation process of the corporate debtor were made in the liquidation account and the said liquidation account is duly closed on 07.03.2024.
13. The Liquidator submits that, the HDFC Bank Limited submitted its claim in capacity of being a financial creditor of the corporate debtor on 189th day of the liquidation. The Liquidator being devoid of any power to condone the delay in submission of claims, rejected the claim of HDFC on the ground of undue delay. Aggrieved by the said rejection, HDFC preferred an application before this Hon'ble Tribunal and the Hon'ble Tribunal vide order dated 23.02.2022 in I.A. 1608/2021 was pleased to condone the delay in submission of the claim and directed the liquidator to verify/consider the claim on merits. However, the said final order had some typographical errors in the cause-title. HDFC filed an application seeking rectification of the said error to enable the liquidator to act on the said order. The said rectification application being I.A. 1356/2022 was allowed on 02.01.2023. Hence, the Liquidator states that the time period consumed in adjudication of rectification application deserves to be excluded from the computation of liquidation period.
14. The Liquidator further submits that the liquidation order was passed on 11.11.2020, however, the liquidator received intimation in this regard on 24.11.2020, therefore, the liquidator submits that the period between passing of liquidation order till the date of receipt of intimation/certified copy of the

liquidation order deserves to be excluded from the computation of liquidation period.

15. The Liquidator further submits that during the liquidation process of the corporate debtor, second wave of covid-19 broke out throughout the country which compelled the union and state government to take drastic measures such as imposition of strict lockdown to curb the spread of Covid-19. The Hon'ble Supreme Court of India took *suo motu* cognizance of the prevailing situation and passed an order in Writ Petition (civil) No. 3 of 2020, extending the period of limitation for filing any suit, application etc. including period of any outer limit (within which courts or tribunals can condone delay) prescribed under any general or special law w.e.f. March 15, 2020 till February 8, 2022. Hence, the applicant states that period of the second lockdown deserves to be excluded from the computation of the liquidation period.
16. In view of the above facts and circumstances, the submissions made by the Counsel for the Liquidator, upon the perusal of the Final Report and the Compliance Certificate filed in Form-H by the Applicant/Liquidator of the Corporate Debtor, it is seen that the Corporate Debtor has been completely liquidated, and this Bench is of the considered view that the Company, **M/s. Heatshrink Technologies Limited** deserves to be dissolved. Accordingly, we direct that the Company shall be dissolved from the date of this order.

17. Consequently, the Liquidator **Arihant Nenawati** is discharged from his duties and responsibilities as the Liquidator of the Corporate Debtor, **viz. M/s. Heatshrink Technologies Limited.**
18. The Petitioner is further directed to serve a copy of this order upon the Registrar of Companies, with which the company is registered, within fourteen days of receipt of this order. The Registrar shall take necessary action upon receipt of a copy of this order.
19. 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.
20. With the aforesaid observations and directions, the Interlocutory Application bearing **IA No. 3334 of 2023**, is disposed of as Allowed. Resultantly, the Company Petition bearing **CP (IB) No. 1351 of 2019**, is disposed of.

Sd/-
MADHU SINHA
Member (Technical)
Shubham

Sd/-
REETA KOHLI
Member (Judicial)