

IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH-COURT V

I.A. 2478/2022

IN

C.P.(IB)/665(MB)2021

(Under Section 54 of the Insolvency & Bankruptcy Code, 2016)

Rakesh Kumar Relan
Resolution Professional,
Hrishiksha Tradewell Pvt Ltd.

..... Applicant

In the matter of

Devadattam Multitrade Private Limited

..... Operational Creditor

Vs.

Hrishiksha Tradewell Pvt Ltd

..... 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. Manoj Mishra (PH)

ORDER

1. The present application is filed by Mr. Rakesh Kumar Relan, Resolution Professional under Section 54 of the Insolvency and Bankruptcy Code, 2016 for seeking the following prayers:

- a. To pass an order for the dissolution of the Corporate Debtor having CIN No. as U74900MH2014PTC252599 in accordance with Section 54 of the Insolvency and Bankruptcy Code, 2016.*

- b. To direct the Registrar of Companies, Mumbai to remove the name of the Corporate Debtor from the register of companies maintained by it.*
 - c. To pass such other or further order, as this Hon'ble Tribunal may deem fit under the facts and circumstances of the case.*
2. The Adjudicating Authority *vide* its order dated 14.02.2022 on a petition filed by the Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 thereby initiated Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor viz **Hrishiksha Tradewell Pvt Ltd**, wherein Mr. Rakesh Kumar Relan was appointed as Interim Resolution Professional.
3. The applicant published a public announcement on 21.02.2022 in two newspapers i.e. The Financial Express (English Newspaper) and Tarun Bharat (Marathi Newspaper) for inviting claims from creditors but no claims apart from the Operational Creditor was received and thus, the CoC was constituted where the Operational Creditor has 100% voting share.
4. It has been further submitted that in the 1st CoC Meeting held on 09.03.2022, the CoC passed the following resolutions:
 - i) That as the corporate debtor does not have any assets, so no Expression of Interests (EoI) is invited.*
 - ii) that since the company does not have any kind of assets in the nature of land and building, plant and machinery or securities and financial assets, hence, the appointment of valuers for the purpose of valuation of the assets is not required.*

iii) that the existing Interim Resolution Professional to act as the Resolution Professional in the CIRP.

5. The Ld. Counsel for the applicant submits that in the 2nd meeting of CoC which was held on 10.05.2022 wherein the CoC has resolved that the corporate debtor is not in operation for the last 4 years. In accordance with the Auditor's Report and the financial statement of 2018, the corporate debtor does not have any employee or any work projects. Further the corporate debtor does not have any tangible assets from which liquidation application can be filed and payment can be made. Thus, liquidation is a futile process and the CoC have voted unanimously (100%) for going ahead with the dissolution of the corporate debtor.
6. The Ld. Counsel for the applicant further submits that, he had also filed a progress report in form of Interlocutory Application bearing no. 2356 of 2022 and the said application was allowed by the Hon'ble NCLT on 30.08.2022.
7. The Ld. Counsel further submits that as per the books of accounts, it has come to the knowledge of the applicant that the corporate debtor has a receivable of Rs. 4,26,35,301/- from Nano Minpro Pvt Ltd for which the applicant had issued a legal notice through the Adv. Pradeep Mishra on 21.06.2022 which was left undelivered as the door was locked.
8. Further, the COC is of the view that there is no possibility of any resolution plan in the matter and there is a possibility of non-recoverability of the amount from Nano Minpro Pvt. Ltd. since there are no financial or physical assets. Therefore, the CoC in its 2nd meeting has decided for dissolution of the company as there are

no assets in the company and the same has been approved by the member of CoC by 100% voting.

9. As per the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, vide Regulation No.14, it is prescribed as under:

“14. Any time after the preparation of Preliminary Report, if it appears to the liquidator that –

(a) The realizable properties of the corporate debtor are insufficient to cover the cost of liquidation process; and

(b) the affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution.”

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 convenience and 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 Counsel for the Applicant submits that the CIRP Bank Account of the Corporate Debtor has been closed. This submission of the Counsel for the Applicant found substantiated after referring to the Bank Account Statement of the Corporate Debtor which is annexed at Exhibit “D” of the Additional Affidavit, which demonstrates the balance amount as INR 0.00.
12. The Compliance Certificate (FORM H) duly certified by the Resolution Professional [Under Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016] is duly annexed with the Additional Affidavit as **Exhibit “B”**.
13. In view of the above facts and circumstances, the submissions made by the Counsel for the Resolution Professional, upon the perusal of the Compliance Certificate filed in Form-H by the Applicant/RP of the Corporate Debtor and letter issued by the Bank with respect to the Closure of the Bank Account, this Bench is of the considered view that the Company, **Hrishiksha Tradewell Pvt Ltd** deserves **to be dissolved**. Accordingly, we direct that the Company be dissolved from the date of this order.

14. Consequently, the RP **Rakesh Kumar Relan** is discharged from his duties and responsibilities as the Resolution Professional of the Corporate Debtor, **viz. Hrishiksha Tradewell Pvt Ltd.**
15. 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.
16. 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.
17. With the aforesaid observations and directions, the Interlocutory Application bearing **IA No. 2478 of 2022**, is disposed of as Allowed. Resultantly, the Company Petition bearing **CP (IB) No. 665 of 2021**, is disposed of.

Sd/-

MADHU SINHA
Member (Technical)
Shubham

Sd/-

REETA KOHLI
Member (Judicial)