

IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH-COURT V

I.A. 5837/2023

IN

C.P.(IB)/1011(MB)2020

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

Mr. Pardeep Kumar Sethi

IBBI/IPA-001/IP-P00711/2017-2018/11265

Having office at, RBSA Restructuring Advisors LLP,
1121, Building No. 11, Solitaire Corporate Park,
Andheri Kurla Road, Andheri East,
Mumbai, Maharashtra – 400 093.

..... Applicant/Liquidator

In the matter of

JC Flowers Asset Reconstruction Pvt. Ltd.

(Debt assigned by Yes Bank Ltd.)

..... Financial Creditor

Vs.

Cox & Kings Financial Service Limited

..... 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. Mitali Bhatt (PH)

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ORDER

1) This is an Interlocutory Application filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 by the Applicant, **Mr. Pardeep Kumar Sethi** who is the Liquidator of the Corporate Debtor, **Cox & Kings Financial Service Limited** seeking the following reliefs:

- a. *Consider and allow the IA No. 5837/2023 in terms of Section 54 of the Code read with Regulation 45 of the IBBI (Liquidation Process) Regulation, 2016.*
- b. *Direct JC Flowers Asset Reconstruction Pvt. Ltd. (Debt assigned by Yes Bank Ltd.) sole financial creditor being 100% voting share to release the payment towards outstanding dues of Rs. 59,31,249/- as on filing of this present application which comprises liquidation expenses as stated above in this application in view of Regulation 2A of the IBBI (Liquidation Process) Regulation, 2016.*
- c. *Pass orders granting waiver from the compliance of Regulation 6 of the IBBI (Liquidation Process) Regulation, 2016 i.e. maintaining registers and books, as may be applicable, in relation to the liquidation of the corporate debtor, and which was required to be preserved by the liquidator for a period of eight years after the dissolution of the corporate debtor; and*
- d. *Pass orders directing dissolution of the corporate debtor under Section 54 of the Code.*
- e. *Issue such other necessary orders may be deemed necessary in the matter.*

- 2) The Adjudicating Authority *vide* its order dated 07.05.2021 on a petition filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 thereby initiated Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor viz **Cox & Kings Financial Service Limited**, wherein Mr. Pardeep Kumar Sethi was appointed as Interim Resolution Professional.
- 3) It has been further averred that in the 9th CoC Meeting held on 04.04.2022, the CoC by 100% voting had approved the resolution for Liquidation of the Corporate Debtor. Subsequently, this Bench allowed an Interlocutory Application bearing IA No. 1548 of 2022, on 11.10.2022, filed for seeking Liquidation of the Corporate Debtor and Mr. Pardeep Kumar Sethi, was appointed as the Liquidator of the Corporate Debtor.
- 4) The Applicant submits that pursuant to the Liquidation Order, the Liquidator made Public Announcement on **10.11.2022** in Form B of Schedule II as per Regulation 12 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 (“Liquidation Regulations”) in two newspapers viz. **Financial Express (English Language Newspaper) and Pudhari (Marathi Language Newspaper)** informing the public at large about the initiation of the liquidation process against the Corporate Debtor, and inviting claims from the stakeholders to submit their claims on or before **07.12.2022**.
- 5) Thereafter, the applicant submits that he has verified the claims based on the supporting documents/information provided by the stakeholders and the

corporate debtor. Accordingly, the applicant had filed a list of stakeholders with the Hon'ble Adjudicating Authority on 17.12.2022 in line with Regulation 31 of IBBI (Liquidation Process) Regulations, 2016.

- 6) The applicant submits that pursuant to IBBI (Liquidation Process) (Second Amendment) Regulations, 2022, the applicant had revised the Stakeholders Consultation Committee and filed the same on 22.08.2023.
- 7) Further, the applicant submits that he has filed Preliminary Report and Asset Memorandum in line with Regulation 13 and Regulation 34 of CIRP Liquidation, 2016 via IA No. 3750 of 2022 and IA No. 3748 of 2022 respectively. Both the I.A.s were filed on 07.12.2022 and the same were taken on record by this Hon'ble Adjudicating Authority vide an order dated 13.12.2022.
- 8) The applicant submits that during 2nd SCC meeting held on 03.01.2023 and pursuant to various deliberations, the SCC decided to proceed with the sale of the assets of the corporate Debtor on "assets on a standalone basis" as per Regulation 32(a) of the Liquidation Regulations, 2016.
- 9) The Applicant further submits that he has, so far, conducted three auctions on **"AS IS WHERE IS BASIS"**, **"AS IS WHAT IS"** and **"WHATEVER THERE IS BASIS"** and **"NO RECOURSE BASIS"**, through an electronic auction via online portals namely Auction Tiger, where the interested buyers can register, bid and receive confirmation of the acceptance of their bid online. The mode of sale of assets were in accordance with Schedule – I, under Regulation 33 of the IBBI

(Liquidation Process) Regulations, 2016. Details of all the e-auctions are as under:

Auction No.	Notice Date	Auction Date	Lots	Assets	Reserve Price (Rs.)	Result	Successful bidder	Sale Price (Rs.)
1	10/01/2023	13/02/2023	1	Plant & Machinery Majority being IT Assets	9,10,000	Unsuccessful	NA	NA
2	28/02/2023	03/04/2023	1	Plant & Machinery Majority being IT Assets	7,28,000	Unsuccessful	NA	NA
3	06/04/2023	10/05/2023	1	Plant & Machinery Majority being IT Assets	6,56,000	Successful	Tatkal Loan India Pvt. Ltd.	6,56,000

The copy of the Asset Sale Report i.e., Sale Certificate along with the corresponding Auction Notice and Bid document are annexed with the present application.

- 10) The Applicant submits that the outstanding liquidation cost of Rs. 59,31,249/- as on filing of this present application too remains unpaid. The Hon'ble Adjudicating Authority may order to JC Flowers Asset Reconstruction Pvt. Ltd. (Debt assigned by Yes Bank Ltd.) sole financial creditor being 100% voting share for the payments of the same.

- 11) The Applicant submits that all the realizable assets of the corporate debtor have been sold & realized.
- 12) 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”.

- 13) The Applicant further submits that the quarter wise receipts & payments and cumulative receipts & payments for the period from 11.10.2022 to 11.10.2023 is annexed with the present application. And, also, the copy of the audited accounts of the applicant/liquidator’s receipts and payments carried during the liquidation period (i.e., for quarter ended on 31.03.2023 is also annexed with the present application.

- 14) The Applicant submits that during 7th SCC meeting held on 09.10.2023, considering that the period of one year from liquidation commencement date stands completed on 11.10.2023, the Applicant has put resolution for dissolution of the corporate debtor before SCC members. The said resolution for dissolution of the corporate debtor was approved by the SCC members. The relevant extract of the said resolution is as under:

“Agenda Item No. B-1:

To approve to initiate dissolution process and file dissolution application with Adjudicating Authority before the due date as prescribed under Liquidation Regulations, 2016

The Liquidator apprised SCC that as discussed in previous SCC meetings and considering the fact that the period of 1 year from liquidation commencement date (“LCD”) would get completed on 11.10.2023, he proposed the dissolution of CD and filing of the dissolution application before Adjudicating Authority. The following resolution was presented for voting:

“RESOLVED THAT pursuant to the relevant provisions of IBBI (Liquidation Process) Regulations, 2016 (“Liquidation Regulations”) and considering that the period of one year from liquidation commencement date shall get complete on 11.10.2023, an approval of the Stakeholders Consultation Committee is hereby accorded to dissolve the Corporate Debtor in the manner provided under the Liquidation Regulations”

“FURTHER RESOLVED THAT the Liquidator is hereby authorized to file the necessary application before Adjudicating Authority and fulfil the required formalities to give effect to the above resolution.”

The SCC approved the resolution unanimously with the votes of members present in the meeting.

- 15) The Counsel for the Applicant submits that the 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 in the Second Additional Affidavit as Annexure-2, which demonstrates the balance amount as INR 0.00 as on 31.01.2024.
- 16) 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 **Annexure-15**. 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 Interlocutory Application as **Annexure-16**.
- 17) Applicant lastly submits that since all the assets of the corporate debtor have been sold, hence, the present Interlocutory Application has been filed seeking dissolution of the Corporate Debtor.

- 18) 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, **Cox & Kings Financial Service Limited** deserves to be dissolved. Accordingly, we direct that the Company be dissolved from the date of this order.
- 19) Consequently, the Liquidator **Mr. Pardeep Kumar Sethi** is discharged from his duties and responsibilities as the Liquidator of the Corporate Debtor, **viz. Cox & Kings Financial Service Limited**
- 20) 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.
- 21) 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. Thus, prayer (c) of this I.A. is not allowed.
- 22) With the aforesaid observations and directions, the Interlocutory Application bearing **IA No. 5837 of 2023**, is disposed of as Allowed except prayer

(c). Resultantly, the Company Petition bearing **CP (IB) No. 1011 of 2020**, is disposed of.

Sd/-
MADHU SINHA
Member (Technical)
Shubham

Sd/-
REETA KOHLI
Member (Judicial)