

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI**

**I.A- 3442/2022
IN
CP(IB)-494/ND/2019**

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

IN THE SETTLED MATTER OF:

SYNDICATE BANK (now CANARA BANK)
STRESSED ASSETS MANAGEMENT BRANCH
DDA SHOPPING COMPLEX, LAJPAT NAGAR
NEW DELHI – 110001

...FINANCIAL CREDITOR

versus

M/s HIM STEEL PRIVATE LIMITED
D-9, UDYOG VIHAR, ROHTAK ROAD, NEW DELHI
[CIN: U27205DL2011PTC218461]

...CORPORATE DEBTOR

AND IN THE MATTER OF:

Ms. RESHMA MITTAL
(Liquidator Of M/s HIM STEEL PRIVATE LIMITED)
Having Office at: R-4/39, Raj Nagar, Ghaziabad - 201002
Registration Number – IBBI/IPA-001/IP-P00297/2017-18/10541

... APPLICANT

CORAM:

**SHRI MAHENDRA KHANDELWAL (HON'BLE MEMBER, JUDICIAL)
SHRI RAHUL BHATNAGAR (HON'BLE MEMBER, TECHNICAL)**

Appearance

For the Liquidator: Adv. Lalit Mohan, Adv. Videh Vaish, Adv. Aakansha
along with Ms. Reshma Mittal, Liquidator in person

ORDER

PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

Date Of Pronouncement: 24.04.2024

1. This is an application for dissolution of Corporate Debtor M/s HIM STEEL Private Limited that has been filed by the Liquidator under Section 54 of the Insolvency & Bankruptcy Code, 2016 read with Regulation 45(3) of The IBBI (Liquidation Process) Regulations 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016. The prayer made by the Liquidator in the Application is as follows: -

- 1. To allow the present application and pass an order for dissolution of Corporate Debtor i.e. M/s HIM Steel Private Limited.*
- 2. To discharge the Applicant/Liquidator from the Liquidation Process.*

2. The Liquidator has made the following submissions: -

2.1 That an application under Section 7 of the Code was filed by the Financial Creditor (Syndicate Bank) before this Adjudicating Authority (Hon'ble Principal Bench, NCLT Delhi) to initiate Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against the Corporate Debtor (M/s HIM Steel Private Limited) being Company Petition No. (IB)-494/(PB)/2019. This Adjudicating Authority vide order dated 15.07.2019 ("Admission Order") admitted the petition and appointed the applicant herein Ms. Reshma Mittal as the Interim Resolution Professional ("IRP") for the Corporate Debtor.

- 2.2 That pursuant to the aforesaid admission order dated 15.07.2019, the IRP had issued public announcement inviting claims from creditors on 18.07.2019 post which the IRP had collated the claims and constituted the CoC. Thereafter, the IRP had prepared an Information Memorandum as per Regulation 36 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- 2.3 Subsequently the IRP was confirmed as RP by CoC in its second meeting on 09.08.2019. Accordingly, on 21.09.2019, the CoC issued invitation for 'Expression of Interest' in Form -G in response to which 2 entities namely Sponge Sales India Private Limited and Shri Balaji International had submitted their Expression of Interest (EOI).
- 2.4 In the 4th CoC meeting, it was resolved for seeking extension from this Adjudicating Authority for a period of 90 days which was allowed on 08.01.2020. Thereafter, on 20.02.2020, the RP had received Resolution Plan from the representatives of M/s Sponge Sales India Private Limited which was placed before CoC in its 6th meeting dated 09.04.2020 wherein after holding discussions with the aforesaid Resolution Applicant, a revised Resolution Plan was submitted which was unanimously rejected by the CoC on 17.04.2020 for the reason that the Resolution Plan Value was less than the Liquidation Value. In light of these circumstances, the CoC in the same meeting had proposed for Liquidation of the Corporate Debtor and also proposed that the RP to continue as Liquidator with 100% voting share.

- 2.5 This Adjudicating Authority had passed a liquidation order dated 25.06.2020 in I.A No. 2175 of 2020. Vide the said order, the Applicant (erstwhile RP) was also appointed as Liquidator under section 34(1) of the Code.
- 2.6 Thereafter, as per Regulation 12 of Liquidation regulations, the applicant Liquidator had made a public announcement in Form B of Schedule II dated 27.06.2020 published in the following newspapers [Financial Express, Delhi and Chandigarh edition; Jansatta, Delhi edition ; Amar Ujala (Hindi), Himachal Pradesh edition] thereby calling upon all the stakeholders of the Corporate Debtor to submit their respective claims.
- 2.7 It is further submitted that the applicant had filed first progress report before this Adjudicating Authority on 14.07.2020 as per Regulation 15(1)(a) of the Liquidation Regulations. Further, a preliminary report dated 20.08.2020 was filed before AA in terms of Regulation 13 of the Liquidation Regulations.
- 2.8 It is contended that as per Regulation 30 of the Liquidation Regulations, the liquidator had verified claims submitted within 30 days and further as per Regulation 31 had prepared a list of category wise stakeholders on the basis of proofs submitted by them and had filed before this AA on 20.08.2020 which are as follows: -

Sr. No.	Name of Creditor	Class of Creditor	Amount Claimed	Amount of claim Admitted
1.	Canara Bank (E Syndicate Bank)	Financial Creditor	Rs. 1,00,08,34,825.58	Rs. 1,00,08,34,825.58
2.	a) Government Dues b) other than Workmen, Employees and Government Dues	Operational Creditor Operational Creditor	Rs. 8,89,38,049.00 Rs. 3,84,59,234	Rs. 8,89,38,049.00 Rs. 3,84,59,234

2.9 That the Liquidator had filed an asset memorandum dated 20.08.2020 on the basis of fresh valuation reports as the previous valuation reports were more than 9 months old and there existed the impact of Covid Pandemic also, thus in order to ascertain the accurate value of the assets of the CD. As per details submitted in Form-H, the Fair Value is Rs. 12,13,00,000/- and Estimated Liquidation Value is Rs. 10,41,13,000/-.

2.10 The Liquidator submitted that in pursuance to Regulation 15(1)(b) of the Liquidation Regulations which mandate the liquidator to submit progress report(s)

within 15 days of the end of each quarter during which he/she acts as a Liquidator, the applicant had filed 8 progress reports before this AA dated 13.07.2020 ; 10.10.2020 ; 12.01.2021 (revised on 31.03.2021) ; 09.04.2021 ; 05.07.2021 ; 14.10.2021 ; 10.01.2022 and 12.04.2022 followed by the Final Report as per Regulation 5 on 11.07.2022 vide diary no. 0710102054102022..

2.11 The Liquidator apprised us that she had intimated the competent authorities namely the Income Tax Department, Ministry of Corporate Affairs (vide mail dated 22.06.2020) and GST that the applicant is in process of moving an application for dissolution before this Adjudicating Authority in respect of which copy of acknowledgment letter received from Income Tax Department dated 21.06.2022 and copy of GST cancellation order dated 10.01.2022 has been placed on record and marked as Annexure G to the present petition.

2.12 It is averred that all the assets of the Corporate Debtor (Liquidation Estate) have been sold out and the sale proceeds amount worth Rs. 18.72 crores (after Tax Deduction at Source by buyer amounting to Rs 14.04 Lakh) has been distributed among the stakeholders in the following manner as per Section 53 of The IBC (Waterfall Mechanism): -

(Amount in Rs. lakh)

Sl. No.	Stakeholders* under section 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
1	CIRP Costs	21.05	21.05	21.05	100%	
2	Liquidation Costs				100%	
3	Secured financial creditors	10008.35	10008.35	1749.48		
4	Operational creditors (Government Dues)	889.38	889.38	NIL	-	After distributing amount in order of priority as defined u/s 53 of IBC, no amount left for

2.13 The final amount distributed to secured financial creditors comes out to be worth Rs. 17.49 crores approximately which exceeds both the Fair Value and Liquidation value (12.31 crores and 10.41 crores respectively). As submitted by the Liquidator, the valuations have been conducted by Independent Registered Valuers appointed by the Liquidator.

2.14 Separate Bank Account opened in the name of the Corporate Debtor i.e. "HIM Steel Private Limited (Under Liquidation)" bearing A/C No. 85561010013072 with Canara Bank, Navyug Market, Ghaziabad Branch as per Regulation 41 of the Liquidation Regulation has been closed on 27.06.2022. Bank Statement showing Nil Balance has been annexed to the present Interlocutory Application marked as Annexure H to the present petition.

2.15 In compliance of the Regulation 45(3) of Liquidation Regulations, Compliance Certificate in Form H has been filed with the present petition.

2.16 An avoidance application filed under Section 43(1) and 66 of the IBC, 2016 bearing I.A NO. 3749/PB/2020 was allowed by this Adjudicating Authority vide its order dated 14.09.2023. Relevant Extract of the aforesaid order is reproduced below: -

13. Accordingly, we allow the prayer of the applicant and direct Respondent no 1 to Respondent No 4 (i.e., Mr. Ashok Raja, Mr. Abhishek Raja, Mr. Shant Swarup Raja, Mr. Arvin Raja) to make total contributions of Rs. 100.01 Crores which was siphoned-off by the respondent, while managing the affairs of the Corporate Debtor within a period of 30 days from the pronouncement of this order failing which necessary legal actions may be taken.

14. Accordingly, IA 3749/ND/2020 stands allowed.

2.17 No other application pertaining to present case is pending adjudication before this AA. The Liquidator had stated that Canara Bank (erstwhile Syndicate Bank) being the sole financial creditor is entitled to the proceeds/recovery of amount arising out of the said PUFEE transactions (Avoidance Applications) and the realised amount shall be credited to Canara Bank [A/C No. 209272434]. Further, Canara Bank vide email dated 18.08.2023 have confirmed that any appeal/adjudication arising out of the said IA shall be contested by Canara Bank.

2.18 That in view of the above facts and circumstances, the applicant prayed to dissolve the Corporate Debtor by allowing the present application. It is further prayed that the applicant/liquidator be kindly discharged of her duties as the liquidator.

ANALYSIS AND FINDINGS

3. We have heard the submissions made by the Applicant, perused the Application filed by the Liquidator and have gone through the documents on record filed by the Liquidator. Here, it is worthwhile referring to Section 54 of IBC, 2016 and Regulation 45 IBBI (Liquidation Process) Regulations, 2016:

“Section 54 IBC-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.”*

“IBBI (Liquidation Process) Regulations, 2016

45. 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) for the dissolution of the corporate debtor, in cases not covered under clause (a).”

4. That from the conjunct reading of the above provisions, this Adjudicating Authority is required to see whether the assets of the Corporate Debtor are completely liquidated or not. In this case, the assets of the CD have been completely liquidated and the proceeds thereof have been distributed amongst the various stakeholders in accordance with order of priority as per Section 53 of The Insolvency and Bankruptcy Code, 2016 [Waterfall Mechanism].
5. The claimed amount of the sole financial creditor herein was fully admitted by the liquidator to the tune of Rs. 100.0835 crores out of which 17.49 crores has been already credited to the Financial Creditor by way of proceeds from realization of liquidation estate.
6. However, vide order dated 14.09.2023 in I.A No. 3749/PB/2020 wherein this AA had allowed the said interlocutory application, the ex-directors were ordered to make total contributions of Rs. 100.01 crores to the assets of the Corporate Debtor failing which necessary legal action was to be taken. The Liquidator has stated that Canara Bank being the sole financial creditor is entitled to the proceeds/recovery arising out of the adjudication of the aforesaid IA pertaining to PUFÉ Transactions (Avoidance Applications).
7. The admitted claim of the Financial Creditor is Rs. 100.0835 crores which is incidentally also equivalent in full to the amount claimed by the financial

creditor. Under the Liquidation Process an amount of Rs. 17.49 crores has already been credited to the Financial Creditor, thus the Financial Creditor is entitled to remaining amount of [1,00,08,35,000 - 17,49,00,000 = 82,59,35,000] i.e. Rs. Eighty Two Crores Fifty Nine Lakhs Thirty Five Thousand only/-

8. In case, the realization amount from the avoidance application in I.A NO. 3749/PB/2020 exceeds the aforementioned amount of Rs. 82,59,35,000/- ; the surplus amount has to be forthwith distributed by the Financial Creditor to the other stakeholders in accordance with order of priority as envisaged under Section 53 (Waterfall Mechanism) of the Insolvency and Bankruptcy Code, 2016.
9. It is clarified that the Financial Creditor would be entitled to deduct reasonable costs incurred in legal proceedings pertaining to execution of the aforesaid avoidance application before distributing the balance amount to the remaining stakeholders in accordance with Section 53 of the IBC, 2016.
10. The Liquidator has fulfilled Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 and other relevant provisions of law as discussed above, therefore we are inclined to allow the present Application to dissolve the Corporate Debtor.
11. Accordingly, there being no other impediment, the present application is **allowed** and the Corporate Debtor is ordered to be dissolved with immediate effect. The Liquidator, Ms. Reshma Mittal (IBBI/IPA-001/IP-P00297/2017-18/10541) is hereby discharged from her duties as the liquidator in the present case.

12. The Registry is directed to send a copy of this order passed under Section 54(2) to the ROC Delhi & Haryana, with which the Corporate Debtor is registered and also to the Insolvency and Bankruptcy Board of India within seven days from the date of this order.
13. Application for dissolution of M/s HIM Steel Private Limited stands **allowed**.
14. This order be read in conjunction with order dated 14.09.2023 passed by this Adjudicating Authority in IA No. 3749/PB/2020.
15. Let the copy of the order be served to the parties.
No order as to costs.

-SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

-SD/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)