

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

**I.A. (IB) No. 991/KB/2022**

**In**

**C.P. (IB) No. 972/KB/2018**

***An application under Section 53 and 60(5) the Insolvency and  
Bankruptcy Code, 2016 read with Regulation 42(2) of the  
Insolvency and Bankruptcy Board of India (Liquidation  
Process) Regulations, 2016 read with Rule 11 of the National  
Company Law Tribunal Rules, 2016.***

**IN THE MATTER OF:**

**Bell Finvest India Limited,**

**... Financial Creditor.**

***Verses***

**Duckbill Drugs Private Limited**

**... Corporate Debtor.**

***And***

**IN THE MATTER OF:**

**Bell Finvest India Limited**, having its registered address at: 103,  
10<sup>th</sup> Floor, Mittal Chambers, Opposite Inox, CR2, Nariman Point,  
Mumbai-400021.

**... Applicant.**

***Versus***

**Shantanu Brahma, Liquidator of the Corporate Debtor**, Reg. No.  
IBBI/IPA-001/IP-P01482/2018-2019/12251, having registered  
address at: AH-276, Salt Lake, Sector-II, Near Water Tank No.7,  
Kolkata-700091.

**... Respondent.**

**CORAM:**

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)**

**SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)**

**Appearances:**

**For the Applicant:**

**Mr. Pankaj Agarwal, Adv.**

**Ms. Muskan Agarwal, Adv.**

**For the Liquidator:**

**Mr. Shaunak Mitra, Adv.**

**Ms. Debleena Ganguly, Adv.**

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**Date of pronouncement: February 08, 2024.**

**ORDER**

**Per D. Arvind, Member (Technical):**

1. This Court is congregated through hybrid mode.
2. Heard the Learned Counsels for both parties.
3. This application has been preferred by **Bell Finvest India Limited** (hereinafter referred to as 'Applicant') against **Mr. Shantanu Brahma, Liquidator of the Corporate Debtor** (hereinafter referred to as 'Respondent') seeking direction of *this Adjudicating Authority to make payment of Rs. 56,91,199/- (Fifty-Six Lakhs Ninety-One Thousand One Hundred Ninety-Nine only) to the Applicant forthwith or any other Order which may be deemed fit and proper.*

***Factual Aspects:***

4. Duckbill Drugs Private Limited, a Corporate Debtor was sold as a going concern on 11.05.2022 for a sum of Rs. 5,00,00,001/- (Five Crore and One only) along with the bank balance and cash balance of the Corporate Debtor, an aggregate amount of Rs. 5,92,65,029/- (Five Crore Ninety-Two Lakhs Sixty-Five Thousand Twenty-Nine only), was available in the liquidation accounts of the Corporate Debtor. Pursuant to the realization of the sale proceeds, the Respondent has paid an amount of Rs. 47,01,621/- (Rupees Forty-Seven Lakh One Thousand and Six Hundred Twenty-One Only) to the Applicant herein who is an unsecured Financial Creditor. An amount of Rs. 4,32,98,379/- (Rupees Four Crore Thirty-Two Lakhs Ninety-Eight Thousand

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Three Hundred Seventy-Nine Only) was paid towards the entire dues of secured Financial Creditors, after deducting CIRP costs, liquidation costs and fees of the liquidator.

5. It is further submitted that Respondent has made further payments from 19.05.2022 to 22.08.2022, thus, leaving a balance of Rs. 56,19,199/- (Rupees Fifty-Six Lakhs Nineteen Thousand One Hundred Ninety-Nine Only) in the liquidation account.
6. It is the submission of the Applicant that though the assets of the Corporate Debtor were sold on 21.05.2022 till date the Respondent has not distributed the balance available amount of Rs. 56,91,199/- (Rupees Fifty-Six Lakhs Ninety-One Thousand One Hundred Ninety-Nine Only). According to the Applicant the balance amount lying in the liquidation account will have to be paid to the Applicant as all the debts of secured Financial Creditors CIRP cost etc have already been paid.
7. It is the contention of the Applicant that the Respondent, by not distributing the said balance amount to the Applicant has not fulfilled his duties as envisaged under Section 35(1)(j) of Insolvency and Bankruptcy Code, 2016, for brevity "IBC" and hence, this application seeking directions mentioned above, in para 3 of the order.

***Submissions made by the Learned Counsel for the Applicant:***

8. The Learned Counsel for the Applicant submits that since all the dues have been paid the balance lying in the liquidation account of the Corporate Debtor will have to be paid to the Applicant.

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9. Further, it is submitted that the entire balance amount which is lying in the liquidation account of the Corporate Debtor needs to be paid to the Applicant as such non-payment is causing grave financial hardship to the Applicant.
10. Further, it is contended that balance amount lying in the liquidation account of the Corporate Debtor is not fetching any considerable returns and hence, the moneys lying idle in the liquidation account does not serve any purpose.

***Rival contentions made by the Learned Counsel for the Respondent:***

11. Learned Counsel for the Respondent per contra submits that on 18.04.2022 a copy of an application bearing IA No.452 of 2022 filed by one Shantanu Chatterjee, General Secretary of Federation of Medical and Sales Representative, was received, praying relief for, condonation of delay in filling workman/employees claim before this Adjudicating Authority.
12. Further, it is submitted that on 14.10.2022 a direction was passed by this Adjudicating Authority condoning the delay and directed the Respondent to consider the claims on merits. Accordingly, he has received individual forms from 38 (thirty-eight) employees/workmen on 29.01.2022 totalling to an amount of Rs. 1,00,41,552/- (Rupees One Crore Forty-One Thousand Five Hundred Fifty-Two Only). The claim of such employees/workmen were verified in accordance with the provisions and regulations of IBC and an aggregate amount of INR 36,99,760/- (Rupees Thirty Six Thousand Ninety Nine Thousand Seven

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Hundred Sixty only) have been admitted. The admission of the claim required modification to the list of stakeholders initially filed and therefore, another application in I.A. No.1617/KB/2022 has been filed seeking direction for modification in the list of stakeholders.

- 13.** There are several other litigations filed against the liquidator and the liquidator (Respondent) has also filed avoidance applications against the erstwhile directors and promoters bearing I.A. No. 1006/KB/2022. Further the instant application filed by the Applicant shall also attribute to the additional liquidation cost. In view of several pending litigations, it is asserted that some amount will have to be kept for making payment of dues to workman as admitted claim, and for defending the litigations filed against the liquidator and proceed with the litigations initiated by the liquidator in connection with avoidance transactions.
- 14.** In view of above, he submits that whatever is left out after distributing to the workman subject to the approval of this Tribunal and after meeting all the legal expenditure in connection with litigations mentioned above, the balance if any could be paid in accordance with Section 53(1) (a) of IBC, and till such time the balance amount may lie in Liquidation Account.

***Analysis and Findings:***

- 15.** We find that an impending claim from the erstwhile workman/employees of the Corporate Debtor for an amount of Rs. 36,99,760/- (Rupees Thirty-Six Lakhs Ninety-Nine Thousand

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Seven Hundred Sixty Only) needs to be as admitted and paid by the liquidator, subject to disposal of the relevant IA filed in this regard before us.

- 16.** Apart from that we also find that there are litigations initiated by the Liquidator as well as against the Liquidator of the Corporate Debtor and all these litigations costs will have to be met out of the liquidation Account. The Respondent/ Liquidator is right in contending that it would be difficult to estimate the cost of such litigations at this stage and therefore, his claim that the balance amount that is remaining in the liquidation asset may be distributed after paying out the workman/employees and after meeting the legal expenses, will have to be accepted.
- 17.** Accordingly, we find no merit in the Application filed by the Applicant and accordingly, we **dismiss** this application being **I.A. 991/KB/2022**.
- 18.** No Costs.
- 19.** Certified Copy of the order may be issued, if applied for with the Registry of this Adjudicating Authority, upon compliances with all requisite formalities.

**D. Arvind**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

**This order is signed on the 08th Day of February, 2024.**

Subhajit, G. [Steno]  
Tiwari, V. [LRA]  
Bose, R. K. [LRA]