

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

3. I.A. 3596/2022

I.A. 3589/2022

IN

C.P.(IB)-2960(MB)/2019

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **29.11.2022**

NAME OF THE PARTIES: Hardik Pankaj Jotangia

V/s.

Pollen Computer Pvt Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Nitish Bangera, counsel appearing for the Liquidator, is present through virtual hearing.

I.A. 3589/2022

The above Interlocutory Application is filed by the Applicant/Liquidator for taking the Progress Report on record.

Accordingly, the above Interlocutory Application is **allowed** by taking the Progress Report on record.

I.A. 3596/2022

The above Interlocutory Application is filed for dissolution of the Corporate Debtor company.

Heard the arguments of counsel appearing for the Applicant/Liquidator and the above **I.A. 3596/2022 is allowed.** detail order follow:

Sd/-

ANURADHA SANJAY BHATIA
Member (Technical)
//Vitthal//

Sd/-

H. V. SUBBA RAO
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

I.A. No. 3596 of 2022

IN

C.P. No. 2960 of 2019

Under Section 54 of Insolvency &
Bankruptcy Code, 2016

In the matter of

Mr. Hardik Pankaj Jatangia

.... Operational Creditor

vs.

Pollen Computer Private Limited

.... Corporate Debtor

I. A. No. 3596 of 2022

Mr. Bhavesh Rathod

.... Applicant/Liquidator

Order delivered on 29.11.2022

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance:

For the Applicant: Mr. Nitish Bangera, Advocate

ORDER

1. It is an application filed by the Liquidator seeking an Order under Section 54 of the Insolvency and Bankruptcy Code, 2016 for granting "**Dissolution**" of Corporate Debtor.

2. The Adjudicating Authority vide its order dated 06.01.2020 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely Pollen Computer Private Limited, wherein Mr. Bhavesh Rathod, was appointed as Interim Resolution Professional (IRP).
3. During the CIRP period no Prospective Resolution Applicants came forward to bid for the company hence the CoC in its meeting held on 15.02.2021 unanimously approved to liquidate the company. In the said meeting the CoC decided to appoint the Resolution Professional as Liquidator.
4. The Resolution Professional made a liquidation application stating that the Corporate Debtor is non-operational and there are no assets in the company. This Tribunal approved the liquidation of the Corporate Debtor and appointed the Applicant as Liquidator.
5. The Liquidator has published Public Announcement in Form – B dated 15.12.2021.
6. The first stakeholder consultation committee meeting held on 11.02.2022 the liquidator discussed the liquidation order and also informed that in compliance with Regulation 12(1) of IBBI (LP) 2016, a public announcement was issued in newspaper.
7. The second stakeholder consultation committee meeting held on 28.06.2022, the liquidator informed the stakeholder that the Corporate Debtor does not have any substantial asset and will not be made out of the assets of the Company.

8. The Liquidator is filing compliance certificate in Form – H and final report.
9. The Applicant/Liquidator had taken necessary steps as prescribed under the Code and constituted ‘Stakeholders Committee’. The Applicant in compliance of law on 15.12.2021 made public announcement in “Financial Express” (English) and “Mumbai Lakshdeep” (Marathi) inviting claims from the Creditors of the Company.
10. A new Liquidation Account was opened by the Applicant/Liquidator in the Central Bank of India by the name of Liquidation Pollen Computer Private Limited, Account No. 5210586099 at Building No. 61, R. No. 1803, Pant Nagar, Ghatkopar East, Mumbai, Maharashtra – 400075.
11. On 23.11.2022, the Learned Liquidator filed final Progress Report of the Corporate Debtor under Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. On careful perusal of the Application and the Progress Report on record it is noticed that neither there are Assets left with the Corporate Debtor nor any trade receivables are available. According, to Learned Liquidator the Debtor Company has no Asset which can be liquidated as is also evident from the Report of the Liquidator.
12. The Applicant/ Liquidator submits that the as per Regulation 13 of IBBI (Liquidation Process) Regulations, 2016 Preliminary report was filed on 26.02.2020 and the 1st progress report was filed on 19.07.2022, 2nd Progress report was filed on 25.07.2022, 3rd

Progress Report was filed on 26.08.2022 and 4th Progress Report was filed on 23.11.2022 respectively.

13. For the purpose of pronouncement of Dissolution of a Corporate Debtor Section 54 of The Insolvency and Bankruptcy Code, 2016 reads as under:-

“54. (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.

14. In this connection it is also worth to refer to Section 59, Sub-Section 7 of IBC. Although this Section is in respect of Voluntary Liquidation of a Corporate Person, however, according to which where the affairs of the Corporate Person have been completely wound up, and its assets completely liquidated, the Liquidator shall make an Application to Adjudicating Authority for the Dissolution of such Corporate person. This Sub-Section is simply referred for the

reason that in all such situation an Application is to be moved for seeking an Order of “Dissolution of a Corporate Person”.

15. As a consequence, through this Order it is hereby declared that not only it is just and equitable but because of the fact that no asset is available for the purpose of ‘Liquidation’ as reported by Learned Liquidator, this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016. Ordered accordingly, stands ‘Dissolved’ from the date of this Order.
16. Since the Debtor Company stands Dissolved vide this order and no proceedings are now pending, therefore the Registry is directed that the case file be consigned to records.
17. Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies having jurisdiction, for further necessary action as prescribed under Law.
18. Accordingly, IA No. 3596 of 2022 is hereby allowed and disposed off and CP No. 2960 of 2019 is hereby closed.

Sd/-
Anuradha Sanjay Bhatia
MEMBER (TECHNICAL)

Sd/-
H.V. Subba Rao
MEMBER (JUDICIAL)