

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
ALLAHABAD BENCH**

CA No.143 of 2021
IN
CP(IB) No.140/ALD/2017

IN THE MATTER OF :

ASREC (INDIA) LTD

Vs.

.....FINANCIAL CREDITOR

M/S SHASHI OILS AND FATS PVT. LTD.

..... CORPORATE DEBTOR

ORDER DELIVERED ON : 15.07.2021

CORAM:

Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial

For the Resolution Professional: Mr. Shubham Agarwal, Advocate

Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)

Order

1. The present application has been filed on behalf of the Liquidator for Shashi Oils and Fats Pvt. Ltd. under Section 54 of IBC, 2016 for seeking dissolution of the Corporate Debtor.
2. As per the averments made in the application this Adjudicating Authority vide order dated 21.01.2020 passed an order for liquidation of the Corporate Debtor and applicant in compliance of Section 33 IBC made a public announcement on 25.01.2020 in Form-B in two newspapers namely Financial Express (English) Delhi NCR, Edition and Amar Ujala (Hindi) Meerut Edition and further the applicant intimated the ROC, Kanpur vide filing Form No. INC-28 for the stated purpose and also intimated various statutory authorities such as Department of Trade and Taxes and Income Tax Department about the initiation of the Liquidation proceedings.

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3. It is further stated that applicant on 14.02.2020 received a copy of proposal from ASREC (India) Ltd., the sole secured creditor regarding OTS agreed between Mahadev Rice Mills and promoters of Corporate Debtor and has also filed their claim to the tune of Rs. 49,61,07,301/- in prescribed Form- D vide email dated 20.02.2020 and also by courier on 21.02.2020, the same was verified-examine and admitted within 30 days from the date of public announcement and in the said claim Form, the security interest on the assets of the Corporate Debtor was not relinquished in favour of the Applicant.

4. It is further submitted that the OTS proposal executed by the sole secured creditor has failed and thus ASREC (India) Ltd informed that they will proceed further as per law for recovery of the dues and the applicant had also received communication on 07.08.2020 from the sole Financial Creditor regarding relinquishing their security interest on the assets on the Corporate Debtor to the applicant and accordingly, the applicant made the assets of the Corporate Debtor part of the liquidation estate.

5. Further pursuant to the public announcement, a claim from one unsecured Operational Creditor namely Mr. Sanjay Agarwal was also received and the same was examined, verified and admitted and the applicant, further in terms of Regulation 31A (1) of IBBI (Liquidation Process) Regulation, 2016 had formed stakeholders Consultation Committee (SCC) within stipulated 60 days from liquidation commencement date and apprised to all the members vide e-mail dated

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18.03.2020 and also to the promoters/ex-directors of the Corporate Debtor regarding the same.

6. Based on verification, collation and admission of claims, applicant has compiled and prepared list of stakeholders as per Regulation 31(2) of Liquidation Regulation and accordingly, the list of stakeholders, preliminary report and assets memorandum were sent alongwith quarterly progress report and was filed before this Bench.
7. Further in compliance of Regulation 41(1) of Liquidation Regulation, the applicant has opened an account of the Corporate Debtor in ICICI bank titled as (Shashi Oils and Fats Pvt. Ltd.- in liquidation) for receipts and payment of all money due to and from the Corporate Debtor.
8. In the first meeting of SCC which was convened on 11.08.2020, the applicant apprised the stakeholders regarding the sale of the assets and upon discussions, it was decided that all the assets of the Corporate Debtor to be put to e-auction at the reserve price of Rs.3.75 Crores against the Liquidation value of Rs. 3.13 crores (Approx.) in order to fetch best value of the assets of the Corporate Debtor and the said resolution was approved by 100% votes of the SCC . The applicant has further published e-auction sale notice on 12.08.2020.
9. Pursuant to the same notice two prospective bidders showed their interest and deposited requisite earnest money deposit i.e. Rs. 37.50 Lakhs (10% of the reserve price) alongwith the bid documents for participation in the e-auction and further on 29.08.2020, upon closure of e-auction window one namely HAS Traders (Proprietor Mr. Furquan

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Ahamd) was declared as successful bidder with highest bid of Rs. 3.758 crores. Accordingly, the successful bidder deposited another 57 lakhs in the bank account of the Corporate Debtor maintained with ICICI Bank and the balance amount was to be paid within 30 days of sale or within 90 days of the sale (with 12% interest) in terms of the provisions of the Court.

10. It is further submitted that the applicant received the remaining sale consideration from successful auction purchaser in various tranches and further the successful auction purchaser deposited an amount of Rs. 18.90 lakhs as applicable GST on plant and machinery.

11. Pursuant to the above, a sale certificate dated 28.09.2020 was issued to the successful auction purchaser acknowledging the receipt of the total sale price of Rs.3,78,00,000/- in full as the highest bid amount in the auction and handed over possession of the scheduled assets to the buyer on 01.10.2020 and also received a possession certificate from the successful auction purchaser .

12. It is further submitted that the after the sale of the assets of the Corporate Debtor and handing over of the possession to the buyer, the applicant had also cancel the security agency contract executed with BR India Security Service w.e.f. 01.10.2020 .

13. After the receipt of undertaking taken from the sole secured creditor dated 29.09.2020, which is annexed as annexure A-14 of the application, the applicant released an amount of Rs. 3.50 to the sole secured creditors and also deducted his professional fee of Rs. 10 Lakh

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plus applicable GST from the sale proceeds, which was decided as per agreement. Further, an additional amount of Rs. 8.50 lakhs was further released by the applicant to the sole secured creditors on 13.10.2020, after ascertaining the further estimated liquidation expenses and keeping aside the balance amount to be paid towards them and deposited the GST amount receipt from sale of plant and machinery with the GST department and the GST Number taken for the Corporate Debtor has also been surrendered to GST Department.

14. It is further submitted that in compliance to Regulation 36 of IBBI (Liquidation Process) Regulations, 2016, the applicant had prepared and filed Asset sale Report in respect of Corporate Debtor's assets sold during liquidation process. The Liquidator has also prepared a receipts and payment account for the period of 21.01.2020 to 28.02.2020 and the same has been audited by Chartered Accountant, which is annexed as Annexure A-18 of the present application.

15. It is further submitted that the sole financial creditor has undertaken to bear the further estimated liquidation expenses of approx Rs. 8,50,000/- as per their letter dated 12.02.2021 and these expenses will be paid directly to the respective vendors on actual basis. The applicant had prepared the reports of quarterly progress of the liquidation of the Corporate Debtor and was submitted before this Adjudicating Authority.

16. It is further submitted that the sale proceeds were distributed among the stakeholders of the Corporate Debtor in terms of the waterfall mechanism stipulated under Section 53, thereafter, the applicant has closed the said bank account of the Corporate debtor on 19.03.2021

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and in compliance of Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 the applicant has prepared a final report prior to dissolution application containing liquidation statement of assets and its realization and distribution of the amount in terms of Section 53 IBC.

17. Further compliance certificate in Form-H as per Regulation 45(3) of Liquidation Process Regulations, 2016 has also been annexed as Annexure A-23 of the present application. Thus, the applicant has complied with all the provisions of the Code and regulation made thereunder.

18. After hearing the learned counsel for the liquidation and pursuing the material available on record, this Tribunal observed that the company has been completely wound up and its assets have been completely liquidated. Hence, the proposed dissolution is not going to affect adversely to its shareholder or creditors and nor it is contrary to the provisions of law.

19. Hence, considering the above facts and circumstances of the case, this Adjudicating Authority is of the opinion that the present petition deserves to be allowed in terms of its prayer clause.

20. Consequently, in Adjudicating Authority in exercise of the power conferred to it under Sec 54 of IBC, 2016 orders and direct that the company "**Shashi Oils & Fats Pvt. Ltd**" shall stand dissolved from the date of its order and thus the liquidator stands relieved.

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21. The liquidator and registry is further directed to communicate a copy of this order to the Registrar of Companies (where the registered office of the company is situated), IBBI, New Delhi and other Statutory Authorities for necessary information. The same should be communicated within the stipulated period of 14 days from the date of receipt of certified copy of this order.

22. With the above observation, the IA No. 143/2021 is **allowed** and stands **disposed of**.

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JUSTICE RAJESH DAYAL KHARE
MEMBER (J)

Date: 15.07.2021

Swati Gupta
(LRA)