

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.302
IA/(Dis.)/9(AHM)2024
in
CP(IB) 263 of 2020

Proceedings under Section 54 IBC

IN THE MATTER OF:

Mukesh Ramjibhai Dayani Liquidator of M/s Hitkari
Packaging Private Limited

.....Applicant

.....Respondent

Order delivered on: 20/12/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD**

IA(Dis.)9(AHM)2024

In

CP (IB) 263 of 2020

[Filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 for dissolution of the Corporate Debtor]

*In the matter of **M/s. Hitkari Packaging Private Limited***

Mr. Mukesh Ramjibhai Dayani

Liquidator of M/s. Hitkari Packaging Private Limited

Having office at:

302, Laxmi Enclav-1,

Opp. Gajera School,

Katargam, Surat, Gujarat-395004

...Applicant/Liquidator

Order Pronounced on 20.12.2024

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For Applicant

:Mr. Harmish K Shah, Ld. Adv.

For Liquidator

:Mr. Mukesh Ramjibhai Dayani in person

O R D E R

[Per: Bench]

1. The present Application IA/(Dis.)/9(AHM)2024 has been filed under Section 54 of the Insolvency and

Bankruptcy Code, 2016 (hereinafter referred to as "IB Code, 2016"), seeking dissolution of the Company.

2. The Applicant has prayed from this Tribunal following reliefs:

- a) *Your Lordship may be pleased to allow the present application;*
- b) *Your Lordship may be pleased to take final report dated 15.06.2023 on record;*
- c) *Your Lordship may be pleased to pass an order under Section 54 of the Insolvency and Bankruptcy Code, 2016 for dissolution of M/s. Hitkari Packaging Private Limited;*
- d) *Your Lordship may be pleased to grant any other relief as may deem fit in the interest of justice.*

3. It is submitted that Corporate Debtor i.e. M/s. Hitkari Packaging Private Limited was incorporated on 12.10.1987 under the provisions of the Companies Act, 1956, bearing CIN No. U74950GJ1987PTC010045 having it's registered office at 339-340, GIDC Estate, Waghodia, Vadodara.

4. It is further submitted that the one Operational Creditor i.e. Fakirsons Papchem Private Limited filed an application under Section 9 of IB Code, 2016 seeking initiation of the Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor viz. M/s. Hitkari Packaging Limited bearing CP (IB) No. 263 of 2020 pursuant to which order for initiation of CIRP was

passed by the Hon'ble NCLT, Ahmedabad Bench via. Order dated 31.05.2022 wherein Mr. Mukesh Ramjibhai Dayani was appointed as Interim Resolution Professional ("IRP").

5. It is stated that the Corporate Debtor did not have any assets, the members of CoC in their 3rd meeting of CoC dated 14.09.2022 resolved for liquidation of the Corporate Debtor and further in the 4th meeting dated 11.10.2022 resolved to appoint the Applicant as a Liquidator of the Corporate Debtor. Pursuant to the resolution passed by the members of CoC, the Resolution Professional filed an application under Section 33 r.w. 34 of the IB Code, 2016 seeking for liquidation of the Corporate Debtor. Vide order dated 10.01.2023, this Tribunal in IA No. 875 (AHM) 2022 in CP (IB) No. 263 of 2020 passed an order of liquidation of the Corporate Debtor and further appointed the Applicant herein as an Liquidator of the Corporate Debtor.

6. It is stated that the Liquidator made the public announcement in the prescribed "**Form B**" as required under Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and invited the claims from all stakeholders of the Corporate Debtor. It is further stated that the public announcement was made in one National and one Regional newspaper on 14.01.2023 i.e. "Indian

Express” in English Language and “Lok Satta” in Gujarati Language.

7. It is stated that list of stakeholders as of 10.03.2023 was filed before this Tribunal in terms of Regulation 31 of the IBBI (Liquidation Process) Regulations, 2016. The details of the Stakeholders are as under:-

Sr. No.	Name of the Creditor	Amount Admitted	Type of Stakeholders
1.	Indian Bank (Erstwhile Allahabad Bank)	4,41,74,464/-	Secured Financial Creditor
2.	Office of the Assistant Commissioner of State Tax Vadodara	15,47,796/-	Operational Creditor (Government Dues)
3.	Yogesh Enterprise	1,73,019/-	Operational Creditor
4.	B. M. Enterprise	21,20,835/-	Operational Creditor
5.	Fakirsons Papchem P. Ltd.	8,74,861/-	Operational Creditor

8. It is stated that the applicant/liquidator, in accordance with Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016 prepared 1st progress report dated 07.04.2023 within 75 days of the pronouncement of the liquidation order. Further, Preliminary Report, Asset Memorandum in accordance with Regulation 34 of the IBBI (Liquidation Process) Regulations, 2016 was submitted to this Hon'ble Tribunal on 24.03.2023. A copy of E-Filing Receipt and Preliminary Report and Asset Memorandum are annexed as at Annexure-G Colly to the present application.

9. It is further stated that the Applicant has conducted two meetings with Stakeholders Consultation Committee which is as under:-

Meeting	Meeting held on
1.	19.01.2023
2.	24.04.2023

10. It is stated that the Applicant has already submitted an estimate of total liquidation cost along with the preliminary report before this Tribunal in accordance with Regulation 13 of Liquidation Process Regulation, 2016. The actual cost incurred is an under:-

Sr. No.	Particulars	Total Actual Liquidation Cost
1.	Liquidator's Fees	2,15,000/-
2.	Appointment of 2 Valuers	29,000/-
3.	MCA Filing Fees	7,500/-
4.	Legal Expenses for filling an applications before the NCLT	10,000/-
	Total	2,61,500/-

11. There are no pending litigations against Corporate Debtor before different Courts/Tribunals/Forums.

12. It is stated that the Liquidator has conducted and

completed the liquidation process of Corporate Debtor. However, Corporate Debtor did not have any assets the members of stakeholders in their 2nd meeting of SCC dated 24.05.2023 with 90.35% of voting rights resolved for dissolution of the Corporate Debtor.

13. It is stated that in the liquidation process, to ascertain the fair value and liquidation value of the financial assets of the Corporate Debtor. A copy each of the valuation reports are annexed at Annexure-H "COLLY".
14. It is stated that the Corporate Debtor had opened bank account and the same has been closed by the Applicant herein. The copy of the proof of open / closure certificate / statement issued by the Bank is annexed at Annexure-I colly.
15. It is further stated that the Applicant herein also filed an Interlocutory Application seeking for taken on record the 1st Progress Report and the same was taken vide order dated 24.04.2024 by this Tribunal. The Auditor accounts of receipts and payments during the Liquidation period as well as Auditor certificate have been annexed at Annexure-L.
16. It is submitted that the liquidation process has been conducted and is complete and as there are no assets to be utilized for recovery of dues of the creditors/stakeholders. However, Applicant has

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completed all the statutory procedures as envisaged under the provisions of the IB Code, 2016 and, therefore, in compliance of this duties as liquidator has filed the present application seeking for dissolution of the Corporate Debtor. Further, it is submitted that the Liquidator while preparing the final report based upon and detailing the capital structure of the Corporate Debtor and the estimates of its assets and liabilities as on the liquidation commencement date came to the conclusion that there being no assets realizable or saleable, it will only increase the cost of liquidation. Thus, it is found appropriate to go for dissolution in the interest of justice.

- 17.** It is stated that the Applicant has filed synopsis on 16.04.2024, vide Inward Diary No. D 3262 as well as Form-H on 09.05.2024, vide Inward Diary No. D 3892, in compliance of order dated 08.04.2024 to place on record synopsis as well as Form-H.
- 18.** It is stated that the Applicant has filed proof of closure of the liquidation account, which was closed on 15.06.2024 vide Inward Diary No. 7549 on 04.10.2024.
- 19.** In compliance of order dated 14.10.2024, further affidavit has been filed on 21.11.2024 vide Inward Diary No. D 8490.
- 20.** The compliance certificate (Form-H) as per Regulation 45 of the Liquidation Regulations has filed separately on 09.05.2024. It is seen from the Form-H that the

Applicant/Liquidator has not filed any Application under Sections 43, 45, 50 and Section 66 of IBC, 2016. Further in the Form -H, the amounts distributed to stakeholders as per Section 52 and 53 of the code has been reproduced hereunder:

Sl. No.	Stakeholders Under Section 53(1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Realization of Security Interest [Sec.52(1)(b)]	--	--	--	--	--
2	CIRP Cost: Liquidation cost: [Sec. 53(1)(a)]	3,04,600/- 2,91,500/-	3,04,600/- 2,91,500/-	3,04,600/- 2,91,500/-	100%	--
3	Workmen's Dues [Sec.53(1)(b) (i)]	--	--	--	--	--
4	Debts of Secured Creditors [Sec.53(1)(b) (ii)]	4,41,74,464/-	4,41,74,464/-	--	--	--
5	Wages and Unpaid Dues to Employees [Sec. 53(1)(c)]	--	--	--	--	--
6	Debts of Unsecured Financial Creditors [Sec. 53(1)(d)]	--	--	--	--	--
7	Government dues + Amount Unpaid Following Enforcement of Security Interest [Sec. 53(1)(e)]	96,85,860/-	15,47,796/-	--	--	--
8	Any remaining Debts and dues [Sec.	33,87,764/-	33,61,715/-	--	--	--

	53(1)(f)]					
9	Preference Shareholders [Sec. 53(1)(g)]	--	--	--	--	--
10	Equity Shareholders [Sec. 53 (1) (h)]	--	--	--	--	--
	Total	5,78,44,188/-	4,96,80,075/-	5,96,100/-	1.03%	

21. The details of the Liquidation Process has been conducted as per the timeline indicated in Regulation 47 as under:-

Section of the Code / Regulation No.	Description of Task	Timeline as per Regulation 47	Actual timeline
(1)	(2)	(3)	(4)
Section 33 and 34	Commencement of Liquidation and Appointment of Liquidator	(10.01.2023)	10.01.2023
Section 33(1) (b) (ii) / Reg. 12 (1, 2, 3)	Public announcement in Form B	Within 5 days of appointment of liquidator (15.01.2023)	14.01.2023
Reg. 35 (2)	Appointment of registered valuers	Within 7 days of LCD (17.01.2023)	05.09.2022
Reg. 31A(6)	First meeting of SCC	Within 7 days of LCD (17.01.2023)	19.01.2023
Section 38(1), Reg. 17, 18, 19, 20 and 20A	Submission of claims;	Within 30 days of LCD (10.02.2023)	10.02.2023
Section 38(5)	Withdrawal/modification of claim	Within 14 days of submission of claim	NA
Reg.30	Verification of claims received under Regulation 12(2)(b)	Within 30 days from the last date for receipt of claims	12.03.2023

Reg.31A	Constitution of SCC	Within 60 days of LCD	10.03.2023
Section 40(2)	Intimation about decision of acceptance/rejection of claim	Within 7 days of admission or rejection of claim (18.03.2023)	17.03.2023
Reg.31(2)	Filing the list of stakeholders	Within 45 days from the last date of receipt of claims (27.03.2023)	10.03.2023
Section 42	Appeal by a creditors against the decision of the liquidator	Within 14 days of receipt of such decision	NA
Reg.13	Preliminary report to the AA	Within 75 days of LCD (26.04.2023)	24.03.2023
Reg.34	Asset memorandum	Within 30/75 days of LCD (26.04.2023)	24.03.2023
Reg. 15(1), (2), (3), (4) & (5), and 36	Submission of progress reports to AA; Asset Sale report to be enclosed with every Progress Report, if sales are made	First Progress Report Q-2 Q-3 Q-4 FY: 1 Audited accounts of liquidator's receipt & payment for the financial year	07.04.2023 NA NA NA NA
Reg. 44	Liquidation of Corporate Debtor	Within one years (10.02.2024)	24.05.2023

22. We heard the Learned Counsel for the Applicant and perused the material available on record. The Liquidator has filed the Final Report and Form-H in compliance with Regulation 45 of the Liquidation Regulations which contains the details of the Liquidation Process. No assets are left with for any

further disposal. Since the assets of the Corporate Debtor are completely liquidated, there remains nothing. Hence, the Corporate Debtor is required to be dissolved under Section 54 of IB Code, 2016.

23. Accordingly, in exercise of the powers conferred under Section 54(1) of IBC, 2016. Hence, we pass the following order:

- i). This Adjudicating Authority in exercise of powers conferred to it under Section 54(2) of the IBC, 2016 orders that the Corporate Person (Applicant Company) **M/s. Hitkari Packaging Private Limited** **having** **CIN: U74950GJ1987PTC010045** shall stand dissolved from the date of this order.
- ii). The Registry of this Bench and the Liquidator are directed to serve a copy of this order upon the Registrar of Companies, Gujarat, Income Tax Department and also to IBBI, within 14 days from the date of this Order for information and necessary action.
- iii). The Liquidator shall preserve a physical or an electronic copy of the reports, registers and books of account referred to in Regulations 8 and 10 of IBBI Regulations for at least eight years after the dissolution of the Corporate Person, either with himself or with an information utility.

(iv). Consequently, the Liquidator Mr. Mukesh Ramjibhai Dayani is discharged from his duties and responsibilities as the Liquidator of the Corporate Debtor.

27. Accordingly, with the above directions, the present application i.e., **IA/(Dis.)/9(AHM)2024 in CP(IB) No.263/9/NCLT/AHM/2020** stands allowed and disposed of.

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

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Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)