<u>IA(IBC)(DIS.)/17(KB)2024</u> <u>C.P. (IB)/1671(KB)2019</u>

An application under Section 54(1) of the Insolvency & Bankruptcy Code, 2016 and read with Regulation 45(3)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

<i>In the matter of</i> :		
Anmol Feeds Private Limite	ed	
		Operational Creditor
	-Versus-	
Dynamic Hatcheries Private	Limited	
		Corporate Debtor
	And	
<u>In the matter of:</u>		

Tarun Kumar Ray, Liquidator of Dynamic Hatcheries Private Limited, working for gain at Binayak, Flat No. 1, First Floor, 28/2B, K.M. Naskar Road, Kolkata- 700040Liquidator/Applicant

Date of pronouncement: 26/11/2024

Coram:

Smt. Bidisha Banerjee : Member (Judicial)
Shri Balraj Joshi : Member (Technical)

Appearances (via video conferencing/physically):

Ms. Pallavi Roy, Adv. : For Liquidator

ORDER

Per: Bidisha Banerjee, Member (Judicial)

- 1. The court convened through hybrid mode.
- 2. This application IA(IBC)(DIS.)/17(KB)2024 has been preferred to seek the following reliefs, inter alia: -
 - (a) Allow dissolution of the Corporate Debtor in accordance with Section 54(1) of the Insolvency and Bankruptcy Code, 2016 and the Rules and Regulations framed thereunder.
 - **(b)** Relieve the Liquidator from his current duties and dissolve his office.
 - (c) Pass such orders/directions as this Tribunal may deem fit and necessary in the facts and circumstances of the case.

3. Factual matrix of the case is as under: -

- On 25.07.2023, the applicant/petitioner herein was duly appointed as the Liquidator by this Tribunal to initiate the liquidation process against **Dynamic Hatcheries Private Limited** (hereinafter referred to as "Corporate Debtor") under Section 33of the Insolvency and Bankruptcy Code, 2016.
- ii. Pursuant to the Order dated 27.07.2023, in compliance with Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 the applicant herein made a **Public Announcement** in **Form B** of Schedule II of the Liquidation Regulations "Business Standard" (in English) and "Ajkal" (in Bengali Newspaper- Kolkata Edition) Kolkata Edition, inter alia, inviting proof of claims from all stakeholders and also stating that the CD has entered the process of Liquidation.

iii. It is stated that the Valuation was conducted with respect to the only asset of the Corporate Debtor, being a piece of land situated at Sonamukhi, District Bankura, West Bengal. The Applicant submits that there is no other Asset held by the Corporate Debtor. The IRP had taken possession of the said land and handed over the same to the RP. The Average Fair Market Value and Average Liquidation Value of the Corporate Debtor as determined by the Registered Valuers are produced herein below:

PARTICULARS	FAIR MARKET	LIQUIDATION
	VALUE (IN RS.)	VALUE (IN RS.)
Value determined by: Registered Valuer 1 : Mr. Pritam Kumar Nag	21,56,000	17,68,000
Value Determined by: Registered Valuer 2: SEKH TARIK	20,59,000	16,47,200
TOTAL VALUE	42,15,000	34,15,200
AVERAGE VALUE	21,07,500	17,07,600

Copies of the relevant abstract out of the Valuation Reports as issued by both the aforesaid Registered Valuers are annexed herewith as "Annexure E"

iv. It is stated that during Liquidation of the Corporate Debtor, the Sale Notice for First E- Auction of Fixed Asset was published in the newspapers, "Business Standard" and "Bartaman", both Kolkata Edition on September 09, 2023. The First E-Auction held on October 06, 2023, was not successful. Copies of the Sale Notice and Bid History Report are collectively annexed as "Annexure F".

- v. It is further stated that during Liquidation of the Corporate Debtor, the Sale Notice for Second E-Auction was published in Newspapers, "Business Standard" and "Bartaman", both Kolkata Edition on October 11, 2023. The Second E-Auction was held on November 3, 2023, which was also unsuccessful for want of bids. Copies of the Second sale notice and bid history report are collectively annexed herewith and marked as "Annexure G".
- vi. It is submitted that in the 4th meeting of the Stakeholder's Consultation Committee (hereinafter referred to as "SCC"), held on November 16, 2023 the Liquidator placed before the members that the reasons for two consecutive E-Auctions going unsuccessful cannot be ascertained as the price of the Asset was reasonably fixed. The Liquidator proposed to conduct a private sale in terms of Regulation 33(2)(c) at a price higher than the Reserve Price for the failed 2nd E-Auction. The Liquidator discussed the terms and conditions for the proposed Private Sale which were agreed to by the SCC Members. The Minutes of the said Fourth SCC Meeting is annexed as Annexure-H
- vii. It is submitted that since start of the Liquidation Process on July 25, 2023 Meetings of Stakeholders Consultation Committee were convened on July 31, 2023, September 4, 2023, October 9, 2023 & November 16, 2023 wherein the issues with regard to sale of asset of the Corporate Debtor were discussed in detail. The stakeholders advised the Liquidator on the issues with regard to sale of asset and the Liquidator took decisions as advised during the said meetings. Copies of Minutes of the 2nd and 3rd Meetings of SCC are collectively annexed herewith and marked as "Annexure I".
- viii. It is stated that the 5th SCC Meeting of the Corporate Debtor was held on February 27, 2024 wherein the sale proceeds vis-à-vis expenses and distribution to Stakeholders in terms the provisions of Section 53 were

placed, discussed and minutised. The minutes of the 5th SCC along with notice of the meeting meetings is annexed herewith and marked as "Annexure J".

- ix. That as a result of effective marketing by the Liquidator in terms of the Terms and conditions of Private Sale as discussed and agreed upon by the SCC unanimously, the applicant was approached by one Sreyans Forge Private Limited and thereafter the Applicant vide its email dated January 19, 2024 requested the said Sreyans Forge Private Limited to provide necessary undertaking and declarations for completing the formalities as prescribed under necessary regulations. Thereafter, the sale of the Asset of the CD was conducted successfully at a price above the Reserve price of the last Failed Auction on January 20, 2024. The copies of main correspondence to the identified buyer for compliance of the process and necessary undertakings and payment information placed under "Annexure K". Copy of the Asset Sale Report is annexed as "Annexure-L".
- x. The details of the Bank Account opened by the Liquidator, as required in terms of Regulation 41(1) of Insolvency and Bankruptcy board of India (Liquidation Process) Regulation, 2016 are as follows:

Name of the Bank Account

Dynamic Hatcheries Pvt. Ltd. in Liquidation Indian Bank, Kolkata Main Branch, 14, India Exchange Place, Kolkata- 700001

A/c: 7589507087

xi. That on receipt of full payment towards purchase consideration of the Corporate Debtor's Assets, necessary payment acknowledgement and Sale Certificate have been duly issued to the buyer. The copies of acknowledgement receipt and sale certificate are annexed herewith and collectively marked as "Annexure M".

- xii. It is stated that the Corporate Debtor's Bank Account which was under operation during the Insolvency Resolution Period by the IRP and subsequently the RP, has since been closed and the Account Closure Confirmation is annexed herewith and marked as "Annexure N".
- xiii. The Bank Account opened and operated by the Liquidator for carrying on the Liquidation Process has since been closed after paying off the expenses and distributing the amount due to the stakeholders in terms of Section 53 of Insolvency and Bankruptcy Code, 2016. The Statement of the Account and Closure Confirmation is annexed herewith as "Annexure O.
- xiv. That the Accounts of the Liquidator for the Liquidation including all Receipts and Payments have been Audited duly of as required. The Audited Statements of Receipts and Payments Account together with the Auditor' Certificate is placed under "Annexure P".
- xv. It is submitted that the Applicant herein has submitted before the Hon'ble NCLT, Kolkata Bench, the following reports in compliance to the relevant provision of the Code and Regulations thereunder. The said details are produced herein below:

Particulars of Report	Date of Submission
Preliminary Report by the Liquidator	06.09.2023
List of Stakeholders	06.09.2023
Asset Memorandum	06.09.2023
1st Quarterly Progress Report	16.10.2023
2 nd Quarterly Progress Report	05.01.2024

xvi. It is submitted that all the assets of the Corporate Debtor have been disposed of and distributed in accordance with the Code and Rules and Regulations framed thereunder and the Final Report has also been duly prepared and submitted. Therefore, the Corporate Debtor may be dissolved.

- xvii. It is thus submitted that the Corporate Debtor may be dissolved in accordance with Section 54(1) of the Code read with Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. A copy of the Compliance ARUN pate in Form H along with the Final Report prepared by the Applicant herein is attached herewith as Annexure-Q
- **4.** At this juncture, we would go through the various provisions of the Insolvency & Bankruptcy Code dealing with the dissolution of the Corporate Debtor which are as follows: -

Section 54 of the Insolvency & Bankruptcy Code Dissolution of Corporate Debtor –

- (1) Where the <u>assets of the corporate debtor have been completely liquidated</u>, 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."

Rule 45 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016:

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) or the dissolution of the corporate debtor, in cases not covered under clause (a).
- 5. We would note that the Applicant in compliance to the Code and its Regulations has discharged his duties diligently. The liquidation Process is fully complete. Thus, the Liquidator in compliance has filed the present application under Section 54 read with Regulation 45 of IBBI (Liquidation Process) Regulation, 2016, seeking an Order of dissolution of the corporate debtor.
- 6. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator has filed two quarterly Progress Reports from time to time before this Adjudicating Authority and also the final report disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor. As per mandatory requirement under regulation 45(3) of the Liquidation Process Regulations, the Liquidator has prepared a compliance certificate under prescribed 'Form H'. A copy of the Compliance Certificate in Form H along with the Final Report prepared by the Applicant is annexed as Annexure 'Q'.

- 7. A conjoint reading of these statutory provisions as noted supra, mandates, upon completion of the liquidation of the assets of the corporate debtor, filling of subsequent application to the Adjudicating Authority to seek dissolution under Section 54 of the IBC where the assets of the Corporate Debtor either have been completely liquidated after distribution among the Stakeholders or for early dissolution under Regulation 14 of the Liquidation Process Regulations, or where the realizable properties of the corporate debtor are insufficient to cover the cost of the liquidation process, the liquidator may apply to the Adjudicating Authority for early dissolution.
- 8. In view of the above facts and circumstances, this Adjudicating Authority in exercise of the powers conferred under sub-section (2) of section 54 of the Code hereby Orders dissolution of the Corporate Debtor, i.e., Dynamic Hatcheries Private Limited from the date of this Order and the said corporate person thus stands dissolved. The Liquidator is discharged from his responsibilities, subject to fulfilment of the procedural compliances.
- **9.** The Liquidator and the Registry are hereby directed to serve a copy of this Order upon the Registrar of Companies, West Bengal, within fourteen days of receipt of this Order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this Order.
- 10. Further, the Liquidator is directed to serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) within fourteen days of receipt of this order. The IBBI shall take further necessary action upon receipt of a copy of this Order.
- 11. All the assets of Corporate Debtor have been disposed of and distributed in accordance with the code and rules and regulations framed thereunder and the final report has been submitted.
- **12.** IA(IBC)(DIS.)/17(KB)2024 along with C.P. (IB)/1671(KB)2019 is allowed with the above directions and hereby **disposed of** accordingly.

- **13.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- **14.** Certified Copy of this Order may be issued, if applied for with the Registry, upon compliance of all requisite formalities.
- 15. File be consigned to records.

Balraj Joshi Member (Technical) Bidisha Banerjee Member (Judicial)

Order signed on 26th November, 2024.

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