IN THE NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD COURT - 2

ITEM No.302
IA/860(AHM)
2023
in
CP(IB)/152(AHM)2021

Order under Section 54 IBC

IN THE MATTER OF:

VINOD TARACHAND AGRAWAL LIQUIDATOR OF PRINCIApplicant PROTEINS PVT. LTD.

.....Respondent

Order delivered on: 12/08/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

SD/- SD/-

DR. V. G. VENKATA CHALAPATHY MEMBER (TECHNICAL)

CHITRA HANKARE MEMBER (JUDICIAL)

NATIONAL COMPANY LAW TRIBUNAL AHMADABAD BENCH COURT- II

IA No. 860/(AHM)/2023

IN

C.P. (I.B.) No. 152 (AHM)/2021

(An application filed under Section 54 of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

Mr. Vinod Tarachand Agrawal Liquidator of M/s Princi Proteins Private Limited 204, Wall Street-1, Nr. Gujarat College Ellisbridge, Ahmedabad-380006

...Applicant

Order Pronounced on: 12/08/2024

For the Applicant: Mr. Vinod Kumar Shah, PCA For the State Tax Officer: Mr. Archit P Jain, Adv. a.w.

Proxy Mr. Viral Kansara, Adv.

JUDGMENT

1) The Instant Application is filed by Mr. Vinod Kumar Shah, Liquidator of M/s. Princi Proteins Private Limited, the Corporate Debtor, under Section 54 of the Insolvency and Bankruptcy Code, 2016 (hereinafter refered to as "IB Code") with a prayer to dissolve the Corporate debtor i.e. M/s. Princi Proteins Private Limited.

- 2) That the Corporate Debtor is a Private Limited Company incorporated under the Companies Act, 2013 having registered office at Shop No. 17,18, 19, Shreeji Arcade Complex, B/h. Jalaram Bhojnalay Deesam Banas Kantha-385535. The Operational Creditor i.e. Sitaben Hirani-Proprietor bearing CP(IB) No. 152/NCLT/AHM/2021 filed an application under Section 9 of the IBC, 2016. Vide order dated 23.06.2022 the said petition was admitted and Mr. Naresh Ghanshyamchandra Bheda appointed as Interim Resolution Professional (hereinafter referred to as 'IRP').
- 3) That the IRP has made a public announcement as per Section 15 of the IBC 2016, in daily newspaper i.e. Financial Express in English & Gujarati language respectively. Pursuant to the public announcement claims had been received by the IRP and accordingly, CoC was formed and report on constitution of CoC was submitted by the IRP on 19.07.2022. The CoC was consisted of:

Sr. No.	List of Creditors	Amount Claimed (in	Amount Claimed (in	Nature of claim	Voting %
		Rs.)	Rs.)		
1	Govery Rajnish HIrani Prop. Of Ritika Enterprise	5,45,472	5,45,472	Unsecured Financial Creditor	100%
2	Smt. Sitaben Hirani Prop. Of Hirani	2,62,03,299	2,62,03,299	Operational Creditor	NIL

	Brother				
3	Gujarat GST/VAT Dept.	10,81,08,730	10,81,08,730	Operational Creditor	NIL

- 4) The CoC in its 2nd meeting passed a Resolution to replace the IRP and to appoint Mr. Vinod Tarachand Agrawal as RP, the same was approved by the Adjudicating Authority vide order dated 08.09.2022.
- 5) The CoC in its 4th meeting dated 17.10.2022, decided for liquidation of the Corporate Debtor as there was no assets. Vide order dated 26.04.2022 in IA No. 10148 of 2022 the order of liquidation of the Corporate Debtor was passed. Therefore, the Applicant made public announcement (Form a -B) accordance with Regulation 02.05.2023, in 12 of IBBI (Liquidation Process) Regulations, 2016 (the Regulations) in Financial Express- English and Gujarati edition and called upon stakeholders to submit their claims. On 06.05.2023 1st SCC meeting was called on the list of claims received during CIRP. The Applicant had verified the claims in accordance with Regulation 30 on 27.06.2023 and constituted SCC in accordance with Regulation 31A r.w. Regulation 12(2)(c) of the Regulations. List of Stakehoders filed pursuant to Regulation 31(2). stated that during CIRP valuation of financial assets was carried and as per the Valuation Report amoun was 'NIL'.

- On 03.06.2023 E-auction notice was published in Financial Express –English and Gujarati edition to be conducted on 01.07.2023. However, no Expression of Interest (EOI) was received. On 27.06.2023, applicant filed a Preliminary Report as per Regulation 13 of IBBI (Liquidation Process) Regulations, 2016 and Asset Memorandum, pursuant to Regulation 34 of IBBI (Liquidation Process) Regulation, 2016.
- 7) In 2nd meeting of SCC held on 06.07.2023, resolution was passed to dissolve the Corporate Debtor. As per Regulation 15 of IBBI (Liquidation Process) Regulations, 2016, the Applicant had filed 1st and final report. It is stated that there was no asset available with the Liquidator, the cost of CIRP as well liquidation was born by the Members of CoC. The Liquidator has submitted Form -H as per Regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations. As there are no assets of the Corporate Debtor, the Liquidator has filed the present application.
- 8) On filing of this application notice was issued to the Department of Income Tax and Ld. Counsel for the Department of Income Tax appeared and filed its representation stating that in the case of Princi Proteins Private Limited order U/s 147 of the I.T. Act for the A.Y. 2018-19 has been passed on 11.03.2023 by making

addition of Rs. 26,61,620/-. Demand of Rs. 17,61,750/- has also been raised. Further, penalty proceedings u/s 270A of the IT Act has been initiated which is pending for finalization before NeFAC. Penalty could be levied 100% to 300% on the tax addition. Further, there is an outstanding demand of Rs. 570/- is also due as a result of order u/s 143(1) for the F. Y. 2014-15".

9) Vide order dated 11.10.2023 the Adjudicating Authority noted that there are statutory dues of Rs. 4,44,00,000/- and direction has been given to the Liquidator to explain what steps have been taken for recovery of the receivables. In compliance to the said order the Liquidator has filed an affidavit submitting that an IA No. 521 of 2024 was filed by the Office of the Commissioner of State Tax with a prayer to issue directions to the liquidator to admit claim of Rs. 11,93,64,086/- and give priority of dues over the assets of the Corporate Debtor. The Applicant has admitted claim of Rs. 11,93,64,086/- so far as priority of payment is concerned, as such there is no realizable assets with the Corporate Debtor such question does not arise. Further, the State Tax Department has cancelled Input Tax Credit (ITC) claimed by the client of the Corporate Debtor. The Applicant has placed on record two orders of State Tax Department regarding issuance of letters to all the Debtors to whom sales were made by

Corporate Debtor and raised demand of GST alongwith interest and penalty. From the records of the website of the State Tax Department, the Department suo-moto cancelled GST registration number w.e.f. 01.06.2018. The status of the Corporate Debtor is placed on record. The Applicant further submits that as per Section 43(4), Section 46, Section 50 of the IBC, 2016 no action can be taken against the Corporate Debtor/ suspendend management since there is NIL transactions since June 2018 and Corporate Debtor is not functioning at all. IA No. 521 of 2024 filed by the State Tax Officer has been withdrawn vide order dated 22.07.2024.

- 10) We have heard Ld. PCA for the Applicant and perused the material available on record. It may be seen that:
 - i. The Corporate Debtor cannot be revived and it has no assets.
 - ii. Sections relating to avoidable transactions cannot be invoked as also the SCC is not inclined for the purpose.
 - iii. The Income Tax Department appears to have not filed any additional claim during the CIRP as stated in letter dated 07.06.2023. The liquidator has admitted a claim of Rs.11.76,01,365.00 out of the total claim received from statutory authorities amounting to Rs.11,93,64,086 and

has not allotted any amount as there are no assets to be realised. Out of the total claim amount of Rs 14,61,13,557 received and admitted amount of Rs.14,43,50,836 the liquidator is not in a position to allot any amount to any of the claims as there are no funds. This application is also approved by the SCC and the further proposes of continuing the liquidation does not arise. The application filed by the State Tax Authorities has also been withdrawn. If there are any further remedies of the claimants it cannot be on the corporate debtor who has no assets to be realised and only individual action on the directors of the company can be possible.

iv. In view of the same, we pass the following orders:

ORDER

- The Corporate Debtor, M/s. Princi Proteins Private Limited having stands dissolved from the date of this order as per the Section 54 of the Insolvency and Bankruptcy Code, 2016.
- 2. Copy of this order be sent/communicated to the Registrar of Companies, Gujarat, Ahmedabad within seven days from the date of this order for information and necessary action.

IA No. 860(AHM)/2023 IN C.P. (I.B.) No.152(AHM)/2021

3. Accordingly, IA 860(AHM)2023 in CP (IB) 152 of 2021 is allowed and stands disposed of.

SD/-

DR. V.G. VENKATA CHALAPATHY MEMBER(TECHNICAL)

CHITRA HANKARE MEMBER(JUDICIAL)

SD/-

vc