



NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 17

IA (DIS.)/38/2024 IA 1019/2024 IN C.P. (IB)/478(MB)2019

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON 01.10.2024

NAME OF THE PARTIES: GLOBAL EXPRESS MULTILOGISICS
PVT LTD V/s STONE EXPORTS HOUSE
PVT LTD

IBC Under Sec 9 Sec 54(1)

ORDER

1. Adv. Simran Singh for the Applicant/Resolution Professional is present.
2. This application is filed by the Applicant/Resolution Professional on 01.05.2024, seeking an Order under Section 54 of the Insolvency and Bankruptcy Code, 2016 ("Code") for "Dissolution" of the Corporate Debtor.
3. The Adjudicating Authority ("AA") vide its order dated 05.12.2023 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 "M/s Stone Export House Private Limited" wherein, the Adjudicating Authority ("AA") had appointed Mr. Pravin Navandar (Reg. No. IBBI / IPA- 001/IP-P00008/2016-17/10027) as an Interim Resolution Professional ("IRP").
4. The Applicant submits that after an initiation of CIRP, the Applicant tried





all means to trace the Suspended Directors of the Corporate Debtor but the Corporate Debtor's office was not traceable at the registered address or at the additional address nor the director were available at their given addresses.

5. It is further submitted that the last Financials of the Corporate Debtor found during interim search on the ROC Portal, Probe42 and upon enquiry with the Auditors was Audited Balance Sheet for F.Y. 2016-17 along with a Director's report. Therefore, due to the non-availability of the information, the CIRP was at standstill.
6. On 04.04.2024 vide order in IA 1019/2024, the Adjudicating Authority suggested the IRP to move forward with the Liquidation/Early Dissolution process against the Corporate Debtor. Pursuant to the order, 3rd CoC meeting was held on 19.04.2023 to decide upon the agenda of moving forward with the liquidation under Section 33 of the Code r/w Regulation 14(b) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 or early dissolution as may be decided by CoC. Accordingly, CoC passed following resolution with 100% vote in the meeting held on 19.4.2023.

"RESOLVED THAT pursuant to the provisions contained in Regulation 33 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read along with appropriate sections and regulations of the Code, the Committee of Creditors do and hereby approve the Liquidation /direct-dissolution of Stone Export House private Limited, the corporate debtor;

RESOLVED FURTHER THAT the Committee of Creditors do and hereby approves the filing of necessary application before Adjudicating Authority to give effect to the above resolution;



RESOLVED FURTHER THAT the Committee of Creditors do and hereby approve the costs towards filing of relevant application before NCLT and advocates fees as CIRP costs;

RESOLVED FURTHER THAT the Deemed Resolution Professional be and are hereby authorized to do all acts, deeds and things and take all such steps as may be necessary, proper or expedient to give effect to the above-mentioned resolutions."

7. As per the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, vide Regulation No.14, it is prescribed as under: -

"14. Any time after the preparation of Preliminary Report, if it appears to the liquidator that –

- a. The realizable properties of the corporate debtor are insufficient to cover the cost of liquidation process; and*
- b. The affairs of the corporate debtor do not require any further investigation; he may apply to the Adjudicating Authority for early dissolution of the corporate debtor and for necessary directions in respect of such dissolution."*

8. 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.

9. As a consequence, since no asset is available for the purpose of 'Liquidation' as reported by Resolution Professional, no purpose shall be





served by admitting the Corporate Debtor first into Liquidation and thereby pass the dissolution. Accordingly, we are of considered view that this is a fit case for dissolution of the Corporate Debtor to be dissolved in terms of Section 54 of Code read with Regulation 14 of Liquidation Process Regulation.

10. Ordered accordingly, the Corporate Debtor shall stand 'Dissolved' from the date of this Order. Consequently, IA 1019/2024 is rendered infructuous.
11. Since the Debtor Company stood Dissolved vide this order and no proceedings are now pending, therefore the Registry is directed that the case file be consigned to records.
12. 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.
13. As regards to the prayer for settlement for fees and out of pocket expense incurred by the applicant we find that applicant has received a sum of Rs. 2,50,000/- from the Original petitioner and the financial creditor Bank of India after having filed the claim refused to further participate in the CIRP process after discovering that no assets of the corporate Debtor were traceable. We further find that the applicant IRP had 3 meetings of CoC, verified 5 claims received from operational and financial creditors, filed one IA for co-operation u/s 19(2) and has filed present application for dissolution. Though the applicant's remuneration was fixed at the rate of Rs. 1,00,000/- p.m till the constitution of the CoC. The CoC has not taken any decision on the remuneration of the applicant in view of no availability of any asset with the Corporate debtor. However, it cannot be denied that the applicant had devoted his time and effort in this CIRP process for the resolution of the corporate debtor for the benefit of its creditors. The applicant has so far received Rs. 2,50,000/-. Considering the facts of the case we consider appropriate to allow the applicant to adjust the amount of





Rs. 2,50,000/- against his expenses and fees. No further orders are called for in the matter.

14. In the facts of this case, we also consider it appropriate to direct the Applicant to file a complaint before IBBI for taking necessary action against the Suspended Board in terms of relevant provisions of the Code. Further, the Applicant shall also inform the Registrar of Companies in relation to failure of the Suspended Board to maintain the registered office and failure to maintain and preserve the statutory records and books of account of the Corporate Debtor, whereupon the Registrar of Companies shall initiate appropriate proceedings to prosecute the suspended board members for the contravention of provisions of the Companies Act, 2013.

15. Accordingly, I.A No. 38 of 2024 is hereby allowed and disposed of. I.A No. 1019 of 2024 is disposed of as infructuous.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

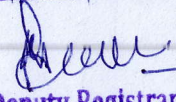
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Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)



Certified True Copy
Copy Issued "free of cost"
On 14/10/2024


Deputy Registrar 14/10/2024
National Company Law Tribunal Mumbai Bench