

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH-VI**

**I.A- 4942/2023
IN
IB-1017/ND/2020**

(Under Section 54 of the Insolvency and Bankruptcy Code, 2016)

IN THE MAIN MATTER OF:

M/s Aone Greenfield Private Limited
[CIN: U70102DL2013PTC259894]

Having its Registered Office at:

Ground Floor, Cabin No.1, Khasra No-265
Opposite telephone exchange, Mundka New Delhi-110041

...FINANCIAL CREDITOR

versus

M/s RSJ Developers Private Limited
[CIN: U70101DL2005PTC142889]

Having its Registered Office at:

No.5, E Block, Local Shopping Centre
Masjid Moth, Greater Kailash-II
New Delhi

...CORPORATE DEBTOR

AND IN THE PRESENT MATTER OF:

Mr. Puneet Sakhuja
(Liquidator of M/s RSJ Developers Private Limited)
IBBI Registration No. IBBI/IPA-001/IP-P-01820/2019-2020/12792

Having his registered address at: -

43, 2nd Floor, Sector-3A, Rachna, Vaishali,
Ghaziabad, Uttar Pradesh-201010
EMAIL: capuneetsakhuja@gmail.com

... APPLICANT/LIQUIDATOR

CORAM:

**SHRI MAHENDRA KHANDELWAL (HON'BLE MEMBER, JUDICIAL)
SHRI RAHUL BHATNAGAR (HON'BLE MEMBER, TECHNICAL)**

Appearances:

For the Liquidator: Adv. Milan Singh Negi, Adv. Nikhil Kumar Jha
along with Ms. Aakriti Gupta, Advocate.

ORDER

PER: RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Date Of Pronouncement: 28.08.2024

1. This is an application for dissolution of Corporate Debtor RSJ Developers Private Limited that has been filed by the Liquidator under Section 54 of the Insolvency & Bankruptcy Code, 2016. The prayer made by the Liquidator in the Application is as follows: -

a) Pass an order for the dissolution of RSJ Developers Private Limited (in Liquidation) in terms of Section 54 of the IBC;

b) Discharge the Liquidator from his duties and dissolve the Committee of Creditors;

c) Direct the ROC to strike off the name of the Corporate Debtor;

d) Pass such other direction(s) as this Adjudicating Authority may deem fit in the interest of justice.

2. The Liquidator has made the following submissions: -

- (i) That an application under Section 7 of the Code was filed by the Financial Creditor (Aone Greenfield Private Limited) before this Adjudicating Authority to initiate Corporate Insolvency Resolution Process against the Corporate Debtor (RSJ Developers Private Limited) being Company Petition No. (IB)-1017/ND/2020. This Adjudicating Authority vide order dated 01.10.2021 ("Admission Order") admitted the petition and appointed one Mr. Naresh Munjal

as the Interim Resolution Professional (“IRP”) for the Corporate Debtor in accordance with the Section 16 of the IBC.

- (ii) That pursuant to the aforesaid admission order dated 01.10.2021, the IRP had issued public announcement dated 08.10.2021 inviting claims from creditors on post which the IRP had collated and verified the claims to constitute the CoC. Thereafter, the IRP had prepared an Information Memorandum as per Regulation 36 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (iii) Thereafter, the 1st meeting of the CoC was held on 02.11.2021, wherein the members of the CoC, with a voting share of 100% replaced the erstwhile IRP and further appointed the Applicant herein, Mr. Puneet Sakhuja, as the Resolution Professional of the Corporate Debtor. The said appointment was also confirmed by this Adjudicating Authority vide its order dated 25.11.2021.
- (iv) That, since no resolution plan was approved by the CoC and the CoC has with 90.51 % voting share recommended the liquidation of the Corporate Debtor, the Resolution Professional (applicant herein) had filed an application bearing application IA/2060/2022 in CP IB-1017 /ND/2020 under Section 33(2) of the Code for initiating liquidation of assets of the Corporate Debtor.
- (v) The aforesaid Interlocutory application was allowed by this adjudicating authority vide order dated 05.05.2022 for initiation of liquidation process of the

Corporate Debtor and this adjudicating authority had appointed the Resolution Professional i.e. Mr. Puneet Sakhuja as the liquidator.

(vi) That in terms of the provisions of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Public Announcement in Form-B was published on 14.05.2022, in Financial Express (English) and Jansatta (Hindi), in Delhi NCR region, to call upon the stakeholders to submit or update their claims submitted during the CIRP process, till the last date for submission of claims i.e. 10.06.2022.

(vii) That the liquidator in compliance of Regulation 41 (1) of Liquidation Regulations, had opened the liquidation account of the corporate debtor for receipt of all monies due to the corporate debtor, details of which are as under: -

Bank account Name: RSJ Developers Private Limited in Liquidation

Name of Bank: Axis Bank

A/c No. 922020035574146

Branch: New Delhi

(viii) That in exercise of powers under Regulation 35 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator appointed independent Registered Valuers to determine the liquidation value of the assets and properties of the Corporate Debtor.

(ix) That pursuant to the aforementioned public announcements, the claims submitted by the stakeholders were verified and collated by the Liquidator.

Thereafter, as per Regulation 31 (2) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, a final list of stakeholders as on the liquidation commencement date was prepared and filed before this Adjudicating Authority on 16.07.2022 vide IA/3388/2022 which was taken on record by this Adjudicating Authority vide order dated 02.09.2022.

(x) That in terms of Regulations 13 & 34 of the Liquidation Regulations, the liquidator filed the preliminary report along with the asset memorandum on 16.07.2022, which was later updated on receipt of the valuation reports from the registered valuers and the said updated asset memorandum was filed before this Adjudicating Authority on 13.01.2023.

(xi) Further the audit of accounts of the corporate debtor for FY 2020-21, 21- 22 and till liquidation commencement date i.e., 21.09.2022, has been completed by M/s Vijay Raj & Co. Chartered Accountants and the audited financial statements have been submitted.

(xii) That the liquidator has convened Stakeholder Consultation Committee (SCC), meeting on 16.02.2023 to inform the SCC regarding the developments in the liquidation process. In the said meeting, the SCC resolved to sell the Non-Current Investments and receivables ("said asset") on standalone basis through e-auctions, and the reserve price of the which was kept at Rs. 14,02,000/- in terms of Regulation 31A(1)(b) of the Liquidation Regulations

(xiii) The publication of Auction notice for sale of the "said asset" on ("as is where is basis/ as is what is basis/ Whatever there is basis/ No recourse basis), whereby

the EMD amount was kept for Rs. 1,40,200/- (10% of reserved price), was carried out in the following newspapers: -

- a. Financial Express (English) – Delhi Edition dated 24.02.2023
- b. Jansatta (Hindi) - Delhi Edition dated 24.03.2023, however there were some translation errors by the printing agency, hence was republished on 25.03.2023.

(xiv) That on 24.03.2023, the e-auction was convened under Regulation 33 / Schedule I of the Insolvency and Bankruptcy of India (Liquidation Process) Regulation, 2016 and M/s Standard InfraCap Services Limited was declared as successful Bidder and Letter of Intent (LOI) was issued on 24.03.2023. The Earnest Money Deposit ("EMD") aggregating to Rs.1,40,200/- (EMD for the Non-Current Investments & Receivables) has been deposited.

(xv) That upon receipt of complete sale consideration of Rs. 14,07,000/- which was transferred to the liquidation account of the corporate debtor on 25.04.2023, the Liquidator issued the sale certificate in favour of M/s Standard InfraCap Services, the successful bidder, in terms of the Bid document and LOI, as such, the sale stood completed. The sale proceeds were distributed amongst stakeholders in accordance with Section 53 of IBC after deducting the liquidation costs.

(xvi) Further, in the 2nd SCC meeting held on 25.07.2023, the SCC was apprised about the successful aforementioned auction and further deliberated that the assets of the corporate debtor have been completely liquidated and there are no other

assets remaining to be realized or distributed and in view of which, the SCC authorized the liquidator to file the present application for dissolving RSJ Developers Private Limited in terms of Section 54 of IBC.

(xvii) The liquidator has filed Five Progress Reports as per Regulation 15 of the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 before this Adjudicating Authority, for quarter ended on 30.06.2022, 30.09.2022, 31.12.2022, 33.03.2023 & 30.06.2023 respectively. Subsequently, Final Report as per Regulation 45 of the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 dated 29.08.2023 had been filed by the Liquidator which states that the Liquidation Process has been completed.

(xviii) That this Adjudicating Authority vide its order dated 08.07.2024 had sought clarification from the applicant relating to the status of recovery and consequent treatment thereof in respect of the proceeds of avoidance transactions in I.A No. 2337/2022 wherein the Respondent No.1 namely Mr. Shiv Kumar Jatia (ex-director of M/s RSJ Developers Private Limited) was directed by this Adjudicating Authority vide its order dated 31.08.2023 to pay a sum of Rs. 4,93,00,000 (Rupees Four Crores and Ninety-Three Lakhs only) back to the Corporate Debtor.

(xix) That in compliance to the aforesaid clarification sought by the Adjudicating Authority, the Liquidator has filed an affidavit dated 18.07.2024 making the following brief submissions (relevant portion): -

- a. That the said sum of Rs. 4,93,00,000/- has till date not been paid back by the Respondent No. 1 in IA No. 2337/2022 (being Mr. Shiv Kumar Jatia who was an ex-director of M/s RSJ Developers Private Limited).
- b. The non-realization of the said amount of Rs. 4,93,00,000/- is due to the fact that an interim moratorium under Section 96 of the IBC is ongoing in the case of Mr. Shiv Kumar Jatia (ex-director of M/s RSJ Developers Private Limited) in pursuance of filing of IB-444(PB)/2021 by M/s Gluckrich Capital Private Limited under Section 95 of the IBC. It is further submitted that the said case remains pending before the Adjudicating Authority.
- c. The said amount of Rs. 4,93,00,000/- has been assigned to M/s Aone Greenfield Private Limited (lead financial creditor/member of Stakeholders Consultation Committee) vide Assignment Agreement dated 28.02.2024, in pursuance of the approval of SCC in their 2nd meeting dated 25.07.2023.
- d. Accordingly, it is submitted that the recovery of the amount shall be pursued by M/s Aone Greenfield Private Limited (lead financial creditor) and the amount so recovered shall be distributed as per Section 53(1)(d) of the IBC, as is envisaged in the assignment agreement dated 28.02.2024.
- (xx) That the fair value as per Form-H is Rs.15,63,014/-. The Liquidation value of the liquidation estate is Rs. 14,02,000/- [excluding cash and cash equivalents of Rs. 1,61,014/-]. The amount realized from the sale of the liquidation estate is Rs. 14,07,000/-.

(xxi) The amount distributed to stakeholders as per Section 53 of the IBC is as follows
(relevant recipients mentioned): -

Stakeholders Under Section 53(1)	Amount Claimed	Amount Admitted	Amount Distributed
(a)Liquidation Costs			Rs. 9,58,000/-
(d)Financial Debts owed to unsecured creditors	Rs. 7,34,41,000/-	Rs. 7,34,33,000/-	Rs. 4,49,000/-
(e)(i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date.	Rs. 1,81,59,000/-	Rs. 1,81,59,000/-	Nil
TOTAL	Rs. 9,16,00,000/-	Rs. 9,15,92,000/-	Rs. 14,07,000/-

(xxii) That the necessary compliance certificate Form H dated 28.08.2023 along with the receipts and payments account of the Corporate Debtor for period from 05.05.2022 to 25.08.2023 duly signed by the Chartered Accountants as required under applicable Regulations has been filed and marked as Annexure 6 to the present petition.

(xxiii) Accordingly, the liquidator has prayed for allowing the present application.

ANALYSIS AND FINDINGS

3. We have heard the submissions made by the Applicant, perused the Application filed by the Liquidator and have gone through the documents on record filed by the Liquidator. Here, it is worthwhile referring to Section 54 of IBC, 2016 and Regulation 45 IBBI (Liquidation Process) Regulations, 2016:

“Section 54 IBC-Dissolution of corporate debtor.

(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 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.”

“IBBI (Liquidation Process) Regulations, 2016

45. 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) *for the dissolution of the corporate debtor, in cases not covered under clause (a)."*

4. That from the conjunct reading of the above provisions, this Adjudicating Authority is required to see whether the assets of the Corporate Debtor are completely liquidated or not. In this case, the assets of the CD have been completely liquidated and the proceeds thereof have been distributed amongst the various stakeholders in accordance with order of priority as per Section 53 of The Insolvency and Bankruptcy Code, 2016 [Waterfall Mechanism].
5. Moreover, the response of the Liquidator to the clarification sought by this Adjudicating Authority vide its order dated 08.07.2024 has been placed on record and appears to be of a satisfactory nature.

6. The Liquidator has fulfilled Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 and other relevant provisions of law as discussed above, therefore we are inclined to allow the present Application to dissolve the Corporate Debtor.
7. Accordingly, there being no other impediment, the present application is **allowed** and the Corporate Debtor is ordered to be dissolved with immediate effect. The Liquidator, Mr. Puneet Sakhuja (IBBI/IPA-001/IP-P-01820/2019-20/12792) is hereby discharged from his duties as the liquidator in the present case.
8. The Liquidator shall forthwith provide a copy of this order to all the members of the CoC as well as all the members of the Stakeholder Consultation Committee.
9. The Registry is directed to send a copy of this order passed under Section 54(2) to the ROC Delhi & Haryana, with which the Corporate Debtor is registered and also to the Insolvency and Bankruptcy Board of India within seven days from the date of this order.
10. Application for dissolution of M/s RSJ Developers Private Limited stands **allowed**.
Let the copy of the order be served to the parties.

-SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

-SD/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)