
(2023) 10 NCLT CK 0081

National Company Law Tribunal, Mumbai Bench Bench Court V

Case No: I.A. No. 1212 Of 2023 In C.P. No. 3252 Of 2019

Mr. Bhavesh Rathod

APPELLANT

Vs

Aqua Infotech Pvt Ltd

RESPONDENT

Date of Decision: Oct. 27, 2023

Acts Referred:

- Insolvency and Bankruptcy Code, 2016 - Section 9, 33, 54, 54(1)

Hon'ble Judges: Reeta Kohli, Member (J); Madhu Sinha, Member (T)

Bench: Division Bench

Advocate: Nithish Bangera

Final Decision: Disposed Of

Judgement

Reeta Kohli, Member (Judicial)

1. This is an application under Section 54 of the Insolvency and Bankruptcy Code, 2016 for "Dissolution" of the Corporate Debtor filed by the Applicant/Liquidator seeking the following reliefs;

a) That this Hon'ble Tribunal be pleased to allow the application and pass an order for dissolution of the Corporate Debtor Aqua Infotech Pvt. Ltd (CIN: U72900MH2010PTC200664) under the Code.

b) To discharge the applicant from the office of liquidator.

c) Pass any such order and further orders as this Hon'ble Tribunal may deem fit and appropriate in the interest of justice.

2. The Adjudicating Authority vide its order dated 03.01.2020 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 Aqua Infotech Pvt. Ltd., wherein Mr. Bhavesh Rathod, was appointed as Interim Resolution Professional. Thereafter, the CoC through a Resolution confirmed and approved the appointment of Mr. Bhavesh Rathod as the Resolution Professional.

3. It is further submitted that during CIRP period no Prospective Resolution Applicant came forward to bid for the company even after preparation of Information Memorandum and publishing Form G for inviting 'Expression of Interest' from Prospective Resolution Applicants. Therefore, the CIRP could not be proceeded with and the COC in its meeting held on 15.02.2021 unanimously approved to file an application. Thus an IA bearing No. 471 was filed for liquidation under section 33 of the IBC 2016 read with Regulation 14(b) of IBBI (Liquidation Process), Regulation 2016.

4. It is submitted that this bench vide order dated 25.03.2022 ordered Liquidation. Thereafter the Liquidator has published public announcement in compliance with Regulation 12(1) of IBBI (LP) 2016 in Form B dated 07.04.2022 in two newspapers namely Financial Express (English) and Mumbai Lakshadweep (Marathi).

5. Thereafter, in the Second Stakeholder Committee Meeting held on October 15, 2022, the liquidator informed the stakeholders that the Corporate Debtor does not have any substantial asset and bank balance. Hence the payment of the stakeholders will not be made out of the assets of the Company. As a result, the creditors and stakeholders/shareholders agreed to put the Corporate Debtor in early dissolution and this agreement can be traced in the Minutes of the Second Stakeholder Committee Meeting.

6. 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."

7. Thus in light of the abovementioned facts and circumstances of the case and the existing provisions of law the liquidator has filed the present Application for the Dissolution of the Corporate Debtor.

8. For the purpose of pronouncement of Dissolution of a Corporate Debtor 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. In view of the submissions of the liquidator stating the fact that no asset is available for the purpose of ‘Liquidation’ and in view of the above mentioned provisions of law, through this Order it is hereby declared, on just and equitable grounds that this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016. Hence CD is ordered to be ‘Dissolved’ from the date of this Order.

10. Since the Debtor Company stands Dissolved vide this order and no further proceedings are pending, therefore the Registry is directed that the case file be consigned to records.

11. Copy of this Order 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.

12. Accordingly, IA No. 1212 of 2023 is hereby allowed and disposed of and CP No. 3252 of 2019 is also disposed of.