



S.No.2

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
10-04-2023 AT 10:30 AM**

**IA (IBC) 93/2023, IA (IBC) 729/2020, IA (IBC) 700/2021 &
IA(IBC) 862/2022 in CP(IB) No.603/9/HDB/2019
u/s. 9 of IBC, 2016**

IN THE MATTER OF:

Pragati Bio Care Pvt Ltd

...Operational Creditor

VS

Pro Young International Pvt Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

O R D E R

IA 862/2022. Orders pronounced. Recorded vide separate sheets. In the result, we found that the Respondents No 2 and 3 are guilty of non-compliance of the directions of this Tribunal dated 07.03.2022, besides the non-compliance is wilful. We therefore direct Respondents No.2 and 3 to be present physically before this Tribunal on 27.04.2023 for passing appropriate sentences against them. Registry to send Notice to R2 and R3 for their appearance on 27.04.2023.

IA 729/2020 & IA NO. 700/2021:

Common Order pronounced. Recorded vide separate sheets. In the result, IAs are partly allowed.

IA 93/2023:

Order pronounced. Recorded vide separate sheets. In the result, the Company i.e. M/s Pragati Biocare Private Limited is hereby dissolved as per the terms mentioned in the order and the Liquidator stands discharged.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – I**

IA No. 729/2020 & IA.NO. 700 OF 2021

IN

CP (IB) No. 603/9/HDB/2019

Under Regulations 33(2) and 34 of IBBI CIRP Regulations read with Section 60(2) of the Insolvency & Bankruptcy Code, 2016, Read with Rule 11 of the National Company Law Tribunal Rules, 2016.

In the matter of M/s. Pro Young International Private Limited

IA No. 729/2020

BETWEEN

B Vijay Kumar
Flat No.101 & 103, Sri Shailaja Nivas,
Bhavani Nagar, Dilsukh Nagar,
Hyderabad – 500060,
Interim Resolution Professional of
M/s. Pro Young International Private Limited

... Applicant in
IA 729/2020

AND

1. M/s. Pragati Bio Care Private Limited,
Having its office at 55 & 56,
Vikasipura Main Road,
Near Vinayaka Temple, Behind JC Industrial Area,
Yellanchahalli, Bangalore, Karnataka – 560062.
2. Committee of Creditors of
M/s. Pro Young International Private Limited- Corporate Debtor.

... Respondents in
IA No. 729/2020



IA No. 700 of 2021

BETWEEN

Niranjan Miriyala
First Floor, H.No.7-1-28/1/A/21,
Shyamkaran Road, Ameerpet,
Hyderabad – 500016,

... Applicant in IA 700/2021/
Erstwhile Resolution Professional

AND

3. M/s. Pragati Bio Care Private Limited,
Having its office at 55-56,
Vikasipura Main Road,
Near Vinayaka Temple, Behind JC Industrial Area,
Yellanchahalli, Bangalore, Karnataka – 560062.
4. Vivid Plastics Private Limited,
Having its office at Plot No. D-53, Phase-I,
IDA, Sy.Nos. 253 and 284/2,
Jeedimetla Village (APIIC-IALA),
Hyderabad – 500055.
5. Amitojas Wellness Private Limited,
Having its office at G-1, Plot No.89, Shubhun Jewel
Friends Colony, Manikonda,
Hyderabad – 500030
6. Vayhan Instant Foods Private Limited,
Having its office at # 1-155, Sy.Nos.108/A,
Kompally Main Road, Kompally,
Secunderabad – 500100.
7. Mystical Biotech Private Limited,
Having its office at # 64, 3rd Floor, 1st Main Road,
2nd Block, Dr. Rajkumar Road,
Bangalore – 560010.



8. Professional Warehousing Private Limited,
Having its office at C-24, Transport Nagar,
Lucknow – 226023, Uttar Pradesh.

9. Ex Committee of Creditors of
M/s. Pro Young International Private Limited- Corporate Debtor.

... Respondents in
IA No. 700/2021

Date of Order:10.04.2023

CORAM:-

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)
Shri. Charan singh, Hon'ble Member (Technical)

PARTIES/COUNSELS APPEARANCE:-

For the Liquidator : Shri. G.M.K. Raju, Counsel

PER: BENCH

COMMON ORDER

IA No. 729/2020

1. This Application is filed by the Applicant/ Interim Resolution Professional in the matter of M/s. Pro Young International Private Limited Under Regulation 33 (2) of CIRP Regulations read with Section 60(2) of the Insolvency and Bankruptcy Code, 2016, Read with Rule 11 of the National Company Law Tribunal Rules, 2016 prays for the following relief(s):



- A. To admit this application for Fees and Costs incurred till August, 2020.
- B. To fix the fee of the Interim Resolution Professional for about six months from 27th February, 2020 to the date of demitting office in pursuance of the Order of the Hon'ble NCLT dated 24th August, 2020, as the applicant has not fixed the same.
- C. Directions to Applicant to bear the CIRP costs of Rs.11,18,839/- incurred by the IRP till end July, 2020 and also direct the other CoC member to contribute their proportionate share.
- D. Directions to M/s. Pragati Bio Care Private Limited and other members of the CoC to pay for the CIRP costs incurred during the month of August, 2020.
- E. To pass such further orders as it may deem fit.

The averments put forth by the applicant in IA 729/2020/ Erstwhile Interim Resolution Professional are:

- 2. This Tribunal admitted the petition bearing CP IB No. 603/9/HDB/2019 filed by Operational Creditor of the Corporate Debtor under section 9 of the Insolvency and Bankruptcy Code, 2016 on 27.02.2020 and CA B.Vijaya Kumar was appointed as the Interim Resolution Professional of the Corporate Debtor M/s. Pro Young International Private Limited.
- 3. Pursuant to public announcement made on 1st March 2020 inviting claims from creditors, the IRP after verification of claims constituted the committee of creditors of the operational creditors under proviso to Section 22 (8) IBC read with Regulation 16 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The IRP convened the First CoC meeting and subsequent meetings for confirmation of the IRP as Resolution Professional, Budgetary support for the CIRP process, contribution to CIRP cost, Status of CD and the profess in terms of getting information and custody of assets.



4. It is stated by the Applicant that the IRP filed 2 IAs numbered 314/2020 and 315/2020 on 15.05.2020 seeking directions to the Directors of the CD for co-operation, including appointment of Resolution Professional (RP). The matters were heard and final combined orders passed in these IAs on 15.07.2020.
5. The Applicant states that CoC has not come forward either to seek extension of the CIRP process under section 12 of IBC, or withdraw application under section 12A of the IBC, or opt for liquidation under section 33(2) of the IBC. The RP has prepared an information Memorandum and offered it to the CoC members on handing over a confidentiality undertaking. There has been no response from the CoC members. The notices were sent to all CoC members. Respondent No.1 holding 41% share has not attended any of the hearings from July, 2020.
6. It is further stated that orders were passed by this Tribunal on 24.08.2020 directing the proposed Resolution Professional CA Niranjan to file Form-2 and to take over charge from Interim Resolution Professional CA B Vijaya Kumar.
7. Thus, the applicant who was the Interim Resolution Professional prayed the Adjudicating Authority to fix the fee payable to the IRP and direct the CoC to contribute the cost of expenses in CIRP costs.

IA No. 700/2021

8. This Application is filed by the Applicant/ Erstwhile Resolution Professional in the matter of M/s. Pro Young International Private Limited Under Regulation 34 of IBBI CIRP Regulations read with Section 60(2) of the Insolvency & Bankruptcy Code, 2016, Read with Rule 11 of the National Company Law Tribunal Rules, 2016, *inter-alia*, for the following relief(s):



- A. To admit this application for Fees and Costs incurred till 7th October, 2021.
- B. To fix the fees for Resolution Professional and approve expenses for the period 09.09.2020 to the date of his demitting office totaling Rs.27,66,509/- in pursuance of the order of this NCLT dated 7th October, 2021, as the CoC has not fixed the same.
- C. Directions to the CoC members to bear the additional CIRP costs of Rs.27,66,509/- incurred by the RP till 7th October, 2021 over and above expenses of IRP.
- F. Directions to the CoC members to contribute their proportionate share of Resolution Professional's fees and expenses as follows:

S.N o.	Name of the member of the CoC	Voting share	Amount to be contributed Rs.	Amount already contributed Rs.	Balance to be contributed Rs
1	Pragati Bio Care Private Limited	41%	11,34,269	Nil	11,34,269
2	Vivid Plastics Private Limited	5%	1,38,325	Nil	1,38,325
3	Professional Warehousing Private Limited	11%	3,04,316	Nil	3,04,316
4	Amitojas Wellness Private Limited	14%	3,87,311	Nil	3,87,311
5	Mystical Biotech Private Limited	14%	3,87,311	Nil	3,87,311
6	Vayan Instant Foods Private Limited	15%	4,14,976	Nil	4,14,976
	Total	100%	27,66,509/-	Nil	27,66,509/-

The averments put forth by the applicant/ Erstwhile Resolution Professional are:

9. The applicant submits that the Respondent No.1/ M/s. Pragati Bio Care Private Limited, Bangalore as Operational Creditor of the Corporate Debtor filed a petition CP IB No. 603/9/HDB/2019 under section 9 of the



Insolvency and Bankruptcy Code, 2016 before this Adjudicating Authority and the same was admitted by order dated 27.02.2020 and CA B.Vijaya Kumar was appointed as the Interim Resolution Professional to the Corporate Debtor M/s. Pro Young International Private Limited.

10. The applicant submits that the public announcements were made on 1st March 2020 and after verification of claims the IRP constituted the committee of creditors of the operational creditors under proviso to Section 22 (8) IBC read with Regulation 16 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The IRP covered in the First CoC meeting and subsequent meetings the need to confirm a Resolution Professional, Budgetary support for the CIRP process, contribution to CIRP cost, Status of CD and the progress in terms of getting information and custody of assets.
11. The applicant submits that the IRP filed 2 IAs numbered 314/2020 and 315/2020 on 15.05.2020 to get co-operation of the Directors of the CD and get decisions from the COC for the way forward including appointment of Resolution Professional (RP). The matters were heard and final combined orders passed in the IAs on 15.07.2020.
12. The applicant submits that the IRP held 9 CoC meetings over 6 months from March, 2020 to August, 2020. The IRP covered in these meetings, the need to appoint a Resolution Professional, budgetary support for the CIRP process, contribution to CIRP cost, updated status of the CD and the progress in terms of getting information and custody of assets. CoC did not vote for the IRP to continue as RP or propose a name to replace him. As per orders of Hon'ble Tribunal dated 08.09.2020 read with orders dated



15.07.2020 and 24.08.2020, CA Niranjan Miriyala took charge as Resolution Professional (RP) from 08.09.2020.

13. The applicant submits that IRP has filed IA.No.729/2020 against Respondents 1 to 7 with regards to CIRP cost already incurred till 08.09.2020. After taking over, RP conducted 10th CoC meeting and 11th CoC meetings. These meetings were characterized by non-cooperation of members of CoC. The continuing STALEMATE due to lack of participation or passing of resolutions by the members of the CoC is serious obstacle for the functioning of the Resolution Professional, which is resulted in time over-runs and fees and expenses in the CIRP process.
14. The applicant further submits that the CoC has also not come forward either to seek extension of the CIRP process under section 12 of IBC, or withdraw application under section 12A of the IBC, or opt for liquidation under section 33(2) of the IBC. The RP has prepared an information Memorandum and offered it to the CoC members on handing over a confidentiality undertaking. There has been no response from the CoC members. The notices were sent to all CoC members. Respondent No.1 holding 41% share has not attended any of the hearings from July, 2020.
15. The applicant further submits that five members of the CoC, other than Respondent No.1 have submitted letters requesting to withdraw from the CoC, stating various reasons including non-cooperation of Respondent No.1. The CIRP process has cross over 500 days. The RP filed application IA.No.399/2021 for Liquidation of the CD as directed by this Adjudicating Authority vide its order dated 16.07.2021. On 07.10.2021 directed



liquidation of the Corporate Debtor and appointed a Liquidator for the same.

16. The applicant further submits that the CoC has not considered the expenses during the CIRP phase and has not made any payment to the Interim Resolution Professional and thereafter to Resolution Professional. The IRP has filed IA.No.729/2020 under regulation 33 of IBBI (CIRP) Regulation read with order dated 15.07.2020.
17. As pleadings and reliefs sought in both these IAs being common, both these IAs are disposed of by a common order. This Tribunal vide order dated 04.07.2022 forfeited the right of the Respondents in these two IAs, to file counter.
18. These IAs are filed by erstwhile Interim Resolution Professional and erstwhile Resolution Professional respectively for payment of their expenses incurred both during their tenure as IRP and Resolution Professional, as the case may be, besides to fix their fee.
19. Despite service of notice to the Respondents and COC neither of them appeared before or contested these applications. Thus, the claim made by the Applicants remain unrebutted.
20. We have carefully perused the record. There is no dispute that the Applicants have functioned as IRP and RP for the period from 27.02.2020 till 30.07.2020 and 08.09.2020 to till 07.10.2021 respectively. The Applicants have also produced expenses incurred by them. However, the COC has not reimbursed the expenditure incurred and had not paid any fee. Therefore, they have approached this Tribunal. As per the provisions of the Code, the expenses incurred by the IRP and RP for the purpose of CIRP is bound to be reimbursed and included in the CIRP costs. So also the fee payable to the IRP and RP. As the amount of expenditure claimed



as incurred by the Applicants remain unrebutted, we allow the same to be paid to the Applicants. So far as the fee of the erstwhile IRP and RP is concerned, we fix the fee as Rs. 5 lakhs (Rs. five Lakhs) to the IRP and Rs. 10 lakhs (Rupees Ten Lakhs) for Resolution Professional and expenses at actuals during the CIRP period as detailed in IA No. 729/2020 and IA No. 700/2021 filed by the IRP and RP respectively (excluding IRP/RPs fees). The fees of IRP and RP and expenditure during CIRP shall be borne by the CoC members proportionately. The fee and expenditure as fixed shall be paid to the Applicants within 30 days from the date of this order.

21. IA Nos 729 of 2020 and 700 of 2021 are accordingly partly allowed.

SD/-

(Sh.Charan Singh)
Member (Technical)

SD/-

(Dr.Venkata Ramakrishna Badarinath Nandula)
Member (Judicial)

Sridher



**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – I**

**IA.NO. 862 OF 2022
IN
CP (IB) No. 603/9/HDB/2019**

Under Section 60(5) of the Insolvency & Bankruptcy Code, 2016 and Section 425 of the Companies Act, 2013, Read with Rule 11 of the NCLT Rules, 2016.

BETWEEN

M/s. Pro Young International Private Limited
Represented by its Liquidator, PV Narayana Rao,
Flat No. 201, PKR Mansion, Ramnagar Gundu,
Vidyanagar, Hyderabad – 500044, TS, India.

... Petitioner/ Corporate Debtor

AND

1. M/s. Pragati Biocare Private Limited,
#55-56, Yelchenahalli Village, Uttarahalli,
Hobli, Bangalore, Karnataka – 560062.

... Respondent No.1/ Operational Creditor

2. Mr. Sudhir Jain S/o. Bhawar Lal Jain
R/o. E-1703, ETA Garden, Magadi Road,
Near Binny Mills, Bangalore, Karnataka – 560023.

... Respondent No.2

3. Mrs Neeta Jain D/o. Heera Lal,
R/o. E-1703, ETA Garden, Magadi Road,
Near Binny Mills, Bangalore, Karnataka – 560023.

... Respondent No.3

IN THE MATTER OF:

M/s. Pragati Bio Care Private Limited

... Operational Creditor

Versus

Pro Young International Limited

... Corporate Debtor



Date of Order: 10.04.2023

CORAM:-

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)
Shri. Charan singh, Hon'ble Member (Technical)

PARTIES/COUNSELS APPEARANCE:-

For the Liquidator : Shri. V.V.S.N. Raju, Counsel

PER: BENCH

ORDER

1. This Petition is filed by the Liquidator in the matter of M/s. Pro Young International Private Limited (hereinafter referred to as "Corporate Debtor") under Section 60(5) of the Insolvency & Bankruptcy Code, 2016 and Section 425 of the Companies Act read with Rule 11 of the NCLT Rules, 2016 that the Liquidator was appointed by this Adjudicating Authority vide its order dated 07th October, 2021 in Company Application CP.(IB).No. 603/9/HDB/2019, where under liquidation of the Corporate Debtor was directed. The Liquidator prayed that this Adjudicating Authority to hold the Respondent No.1 represented by Respondent Nos.2 and 3 hold guilty under Section 12 of Contempt of Court Act, 1971, ensued from Section 425 of Companies Act, 2013, wherein, this Adjudicating Authority shall have same power as that of a High Court under Contempt of Court Act, for Non-Compliance of order dated 07.03.2022 to deposit 5 Lakhs with the Liquidator within 15 days and Pass any other order(s) that the Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.



The averments put forth by the Liquidator are:

2. It is stated by the Liquidator/Petitioner that this Adjudicating Authority on 07.03.2022 during the hearing in the matter of IA.No.729/2020 and IA.No.700/2021 in CP IB.No.603/9/HDB/2019 made the following direction to the Operational Creditor namely, Pragati Biocare Private Limited (Respondent No.1) who filed the Company Application against the Corporate Debtor before this Adjudicating Authority that *“we further direct the Operational Creditor/ deposit Rs.5 lakhs with the liquidator forthwith towards part payment of the fee and expenditure of erstwhile Interim Resolution Professional/ Resolution Professional, within 15 days. Liquidator is directed to distribute the aid amount on its receipt to the erstwhile Interim Resolution Professional and Resolution Professional equally towards expenses incurred by them incurred by them during CIRP Process.”*
3. It is stated by the Liquidator that the Operational Creditor/ Respondent No.1 to 3 herein neglected and utterly failed to comply with the order dated 07.03.2022 for depositing Rs.5 Lakhs within 15 days with the liquidator in order to pay the erstwhile IRP/RP equally towards the expenses incurred by them during CIRP process, ended on 23.03.2022. The Liquidator/ Petitioner also sent various mails dated 07th March, 2022, 10th March, 2022 and 27th April, 2022.
4. It is stated by the Liquidator/Petitioner that the default by Respondents are willful and deliberate and tantamount to offence under relevant sections of contempt of court act, 1971. As per Section 425 of the Companies Act, 2013, the Tribunal and the Appellate Tribunal shall have the same jurisdiction, power of authority in respect of contempt as that High Courts.



May exercise such powers under Section 12 of the Contempt of Court Act, 1971 and the same is reiterated below:-

12. Punishment for contempt of Court

- (1) Save as otherwise expressly provided in this Act or in any other law, a contempt of Court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both: "Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court. Explanation – An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bonafide.*
- (2) Notwithstanding anything contained in any other law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) of any contempt either in respect of itself or of a court subordinate to it.*
- (3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.*
- (4) Where the person found guilty of contempt of court in respect of any undertaking given to the Court is a Company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of contempt and the punishment may be enforced, with the leave of the court, by the detention in the civil prison of each such person: Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.*
- (5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent*



or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer.

Explanation.—For the purposes of sub-sections (4) and (5),—

(a) “company” means anybody corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

5. It is stated that the notice has been sent on 03.11.2022 to the Respondents and proof of service to that effect is filed. As per the same all the Respondents were served, and this Tribunal held that service is sufficient. None appeared. Respondents 1, 2 & 3 are set ex-parte.
6. In the light of the facts aforementioned, the point that emerges for our consideration is,

Whether the respondents 2 & 3 have committed willful disobedience to the order of the Tribunal dated 07/03/2022 in I.A. No. 729 of 2020 and I.A. No. 700 of 2021 in C.P. No. 603 of 2019?
7. We heard the Ld. Counsel for the Liquidator Shri V.V.S.N. Raju and perused the record.

POINT

Whether the respondents 2 & 3 have committed willful disobedience to the order of the Tribunal dated 07/03/2022 in I.A. No. 729 of 2020 and I.A. No. 700 of 2021 in C.P. No. 603 of 2019?



8. At the outset, it may be stated that despite this Tribunal ordering notice to all the respondents, none of the respondents chose to appear before this Tribunal or contest the present application. We, therefore, proceed to decide the point on the basis of the material that is available before this Tribunal and the submissions made on behalf of the Liquidator.
9. According to the Ld. counsel for the liquidator, in the order of this Tribunal dated 07/03/2022 in I.A. No. 729 of 2020 and I.A. No. 700 of 2021 in C.P. No. 603 of 2019, the Tribunal observed as under:
“We further direct the Operational Creditor to deposit Rs. 5 lakhs with the Liquidator forthwith towards part payment of the fee and expenditure of erstwhile Interim Resolution Professional/Resolution Professional within 15 days. The Liquidator is directed to distribute the said amount on its receipt to the erstwhile Interim Resolution Professional/Resolution Professional equally towards expenses incurred by them during the CIRP Process.”
10. The Respondents despite having taken note about the said observations of the Tribunal, breached the same and, therefore, are liable for action in terms of section 12 of the Contempt of Court Act.
11. It is the further the contention of the Liquidator that several emails were sent by the Liquidator to the respondents including the emails sent on 07/03/2022, 10/03/2022 and on 27/04/2022 requesting the Respondents to comply the order of this Tribunal, however, the respondents have not complied the order. Therefore, under these circumstances, the Applicant has been left with no alternative, but, to pray for action of the contempt against the respondents.
12. Further, needless to say that the party is bound to comply the directions/orders passed by the Courts and Tribunals and any willful breach/violation of the order /directions passed by the Courts and Tribunals, if it is willful, it is to be dealt with squarely in accordance with Contempt Law. The case on hand is a clear example as to willful



disobedience of the order of the Tribunal order dated 07/03/2022 cited supra, as the respondents 2 & 3 despite being fully aware of the directions passed have not complied to the order of this Tribunal. Even after notice in this application, none of the respondents chose to appear before this Tribunal and state the reasons, if any, for non-compliance of the order of this Tribunal. Therefore, we are convinced that the violation is willful. Therefore, in view of our discussion, we hereby declare the respondents 2 & 3, namely, Mr. Sudhir Jain, S/o Bhawar Lal Jain and Mrs. Neeta Jain, D/o of Heera Lal are guilty of willful violation of the order of this Tribunal dated 07/03/2022 passed in in I.A. No. 729 of 2020 and I.A. No. 700 of 2021 in C.P. No. 603 of 2019.

13. In terms of section 425 of the Companies Act, this Tribunal and the Appellate Tribunal shall have the same jurisdiction, powers and authority in respect of contempt as that of High Courts. Hence, we hereby direct the respondents 2 & 3 to be present before this Tribunal physically for hearing and for passing appropriate sentence against them. The Registry is directed to send notices to Respondents 2 & 3 for their appearance on 27th April, 2023.
14. Accordingly, this application is allowed.

SD/-

(Charan Singh)
Hon'ble Member (Technical)

SD/-

(Dr.Venkata Ramakrishna Badarinath Nandula)
Hon'ble Member (Judicial)

Sridher



**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - I, HYDERABAD**

**IA (IBC) 93/2023 in
C.P. (IB) No. 603/9/HDB/20219
Under Section 9 of the IB Code, 2016**

**In the matter of
M/S PRO YOUNG INTERNATIONAL PRIVATE LIMITED**

M/s Pro Young International Private Limited,
Having its Registered office at Flat No: T.F.6, 3rd Floor,
Empire Square, Road No: 36, Jubilee Hills Hyderabad
TG 500033 IN
Through its Liquidator,
CA.P V Narayana Rao
IBBI/IPA-01-706/2019-2020/12633
Having office at 717, Journalist colony,
Road No.2 Banjara Hills, Hyderabad - 500034

...Applicant/Corporate Debtor

Date of Order: 10.04.2023

Coram:

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)

Shri Charan Singh, Hon'ble Member (Technical)

Counsel present:

For Applicant : V.V.S.N.Raju, Advocate

Per : Bench

O R D E R

1. This application is filed, seeking for dissolution of the Corporate Debtor under Section 54(1) or any other provisions of the I&B Code, 2016.



2. The facts of the case briefly are as follows:

- (i) The Corporate Insolvency Resolution Process was initiated by virtue of the Order dated 07.10.2021 in CP (IB) No.603/9/HDB/2019 under section 9 of the I&B Code.
- (ii) This Tribunal vide order in IA No. 399/2021 passed liquidation order on 07.10.2021 in CP(IB)No.603/9/HDB/2019 and appointed Mr. PV Narayana Rao as applicant herein to act as Liquidator U/s 32 (2) Insolvency and Bankruptcy Code 2016. Liquidator took all the available assets and properties of the Corporate Debtor from the Resolution Professional and formed Liquidation estate for the purpose of realization of assets of the Corporate Debtor through public auction.
- (iii) By the direction of the Hon'ble NCLT, the liquidator has commenced the process of Liquidation in the manner laid down in chapter 3 of I &B Code 2016 and I &B of India (Liquidation Process) Regulations, 2016 and as per the directions of the bench the Liquidation process on various dates and completed disbursement of realised amount.
- (iv) As per the Regulation 12 of IBBI (Liquidation Process) Regulations, 2016, the Liquidator issued a Public Announcement in Form-B in



two dailies namely Financial Express in English language and Andhra Prabha in Telugu language on 15.09.2019, inviting claims from the stakeholders of the Corporate Debtor to be submitted on or before 13.10.2019.

- (v) Further submitted that a claim for Rs. 2,27,41,200 has received towards Tax dues from Excise and Taxation Officer-cum-Assessing Authority, Haryana, and admitted after due verification and the Claims – Governments, Workmen and Employees total claim received, verified and admitted from the Government, Workmen and Employees during the Liquidation.
- (vi) As per the Regulation 31A of IBBI (Liquidation Process) Regulations 2016, the stakeholders Consultation Committee was constituted on 25.10.2019.
- (vii) Liquidator had issued a Public announcement in form of Sale Notice in Nava Telangana, (Telugu, Telangana) and Financial Express, (English, in AP & Telangana) on 24.04.2022. E-auction was conducted on 02.05.2022, interested Bidders seeks time to assess the value of the Trade Marks and the 2nd Sale Notice was issued on 18.05.2022 with same Reserve Price.
- (viii) The Stakeholders Consultation Committee meetings were held on 02.02.2022, 13.04.2022, 02.06.2022 and 22.09.2022.



- (ix) The Liquidator subsequently filed proof of filing of preliminary report along with Asset Memorandum on 21.12.2021.
- (x) As per Regulation 32(a) of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator had issued a Public Announcement in Telangana and Hyderabad.
- (xi) It is averred that the sale was conducted by the Liquidator as per section 35(1)(f) of I&B Code r/w Regulations 32 and 33 of IBBI (Liquidation Process) Regulations 2016 wherein e-auctions were conducted and the successful bidder M/s Yess Info Tech Solutions Pvt. Ltd Hyderabad have paid full sale consideration.
- (xii) It is further submitted that as per Regulation 41 of IBBI (Liquidation Process) Regulations 2016, the Liquidator opened a Liquidation Account No.426102000001809 at IDBI Bank, Ameerpet Branch, Hyderabad and amounts received from successful bidders were deposited in this account by the Liquidator.
- (xiii) Under section 53 of the IB Code, 2016 and other applicable Liquidation Process Regulations, the Liquidator made distribution of Liquidation proceeds to the claimants. It is averred that the Bank Statement filed will evidence the receipt of sale consideration and disbursements made to the stakeholders as per the waterfall mechanism. The Compliance Memo



along with Form H is filed as per the Regulation 5(f) of IBBI Regulations, 2016.

3. In the light of above facts and circumstances of the case, the only point that emerges for consideration of the Tribunal is

Whether the Corporate Debtor can be dissolved ?

4. We have heard the Ld. Counsel for the Liquidator Shri V.V.S.N.Raju and also perused the record.

5. At the outset it may be stated that Section 54 of the IBC lays down the criteria for dissolution of the Corporate Debtor.

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.



6. Regulation 45 of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 reads as under:-

Regulation 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).]

7. We are satisfied that the criteria laid down under law has been fully complied with in this case. As such, the Corporate Debtor can be ordered to be dissolved. Hence, we hereby order dissolution of the Corporate Debtor as under:-

- (i) The Corporate Debtor/M/s Pro Young International Private Limited stands dissolved from the date of this Order, in terms of Section 54(1) of IBC, 2016, and the Liquidator stands relieved.
- (ii) The Liquidator is directed to send the copy of this Order within 7 days from the date of pronouncement to the Registrar of Companies, Hyderabad.
- (iii) Upon dissolution of the Corporate Debtor, the records of the Company which are in possession of the Liquidator, be handed over by the Liquidator to the IBBI.
- (iv) The Registry is also directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data.



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- (v) A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.
- (vi) In terms of the above, IA (IBC) 93 of 2023 filed by the Liquidator appointed for M/s Pro Young International Private Limited (Corporate Debtor) for dissolution of the Company under Section 54 (1) of IBC, 2016 stands disposed of accordingly. Since the Corporate Debtor stood dissolved vide this order and no proceedings are now pending, therefore, the Registry is directed to consign the file to records.

Sd/-
CHARAN SINGH
MEMBER (TECHNICAL)

Sd/-
DR. N.VENKATA RAMAKRISHNA BADARINATH
MEMBER (JUDICIAL)

Swapna/pavani