

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH, COURT-III

IA-3695-2023
In
IB-1713-2019

Under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016.

IN THE MATTER OF:

M/S GOYAL TEA AGENCIES

PRIVATE LIMITED

... OPERATIONAL CREDITOR

VERSUS

M/S SHAKTI BHOG SNAKCS LIMITED

... CORPORATE DEBTOR

AND IN THE MATTER:

MR. UMESH GUPTA

Resolution Professional of M/s. Shakti Bhog Snacks Limited (Under CIRP)

Ground Floor, 221-A/ 19, Onkar Nagar B,

Tri Nagar, New Delhi – 110035

... APPLICANT

Order Pronounced On: 30.06.2025

CORAM:

SHRI BACHU VENKAT BALARAM DAS,
HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant : Ms Swaralipi Deb Roy, Adv.

For the ED : Mr. Zoheb Hossain (Spl Counsel, ED),
Mr. Vivek Gurnani, (Panel Counsel, ED)

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. This Application has been filed by Mr. Umesh Gupta, the Resolution Professional of M/s. Shakti Bhog Snacks Limited before this Adjudicating Authority under Section 54 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016. The Applicant / Liquidator seeks the following reliefs:

- “a. Pass an order of dissolution of the corporate debtor M/s Shakti Bhog Snacks Limited*
- b. Pass an order that Resolution Professional stands discharged upon passing order of dissolution.*
- c. Pass any other or further directions as this Hon’ble NCLT may deem fit”*

2. **BRIEF BACKGROUND OF THE CASE:**

- i. An Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) was filed by the Operational Creditor, M/s Goyal Tea Agencies Private Limited, against the Corporate Debtor, M/s Shakti Bhog Snacks Limited, which came to be admitted by this Hon’ble Adjudicating Authority vide order dated 03.01.2023, whereby a moratorium under Section 14 of the Code was declared and Mr. Umesh Gupta was appointed as the Interim Resolution Professional. Thereafter, his appointment was duly confirmed as the Resolution Professional by the Committee of Creditors in its 1st meeting held on 02.02.2023.
- ii. In compliance with Section 13, Section 15, and other applicable provisions of the Insolvency and Bankruptcy Code, 2016, read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations,

2016 (“CIRP Regulations”), the Interim Resolution Professional caused a public announcement to be made, intimating the commencement of the Corporate Insolvency Resolution Process against the Corporate Debtor, M/s Shakti Bhog Snacks Limited, and inviting claims from its creditors along with proof of such claims. The said announcement was published in the Hindi edition of *Jansatta* and the English edition of *Financial Express* on 06.01.2023, with the last date for submission of claims stipulated as 17.01.2023.

- iii.** Pursuant to the public announcement inviting claims from all classes of creditors, including Financial Creditors, Operational Creditors, employees and workmen, the Interim Resolution Professional received only one claim, from the Financial Creditor, i.e., State Bank of India, up to the last date of submission, i.e., 17.01.2023. No claims were received from any operational creditors, employees, or workmen. Accordingly, in compliance with Section 21(1) of the Code, the Interim Resolution Professional constituted the Committee of Creditors on 25.01.2023, comprising State Bank of India as its sole member. Thereafter, the report for constitution of the Committee of Creditors was filed by the Interim Resolution Professional on 26.01.2023, confirming that the CoC consisted solely of State Bank of India with a claim of ₹14,62,18,009.83/- and 100% voting share.
- iv.** On commencement of CIRP, the Applicant attempted to take charge of the assets and books of account of the Corporate Debtor. An email was sent to the Suspended Directors on 06.01.2023 intimating them regarding the Commencement of the CIRP and further requesting necessary documents and information.
- v.** On 07.01.2023, the Resolution Professional contacted one of the Suspended Directors, Mr. Naresh Chander Varshney, telephonically. The RP informed him about the initiation of the CIRP and requested that he share contact details of the other directors and assist in providing documents and company information. However, Mr.

Varshney conveyed his inability to meet or provide the requested information.

- vi.** Upon receipt of any reply from the Suspended Director to the E-mail dated 06.01.2023, the Applicant made follow-ups by way of various reminder emails dated 16.01.2023 and 17.01.2023 to furnish the requisite information, to no avail, which compelled the Applicant to file an application under Section 19(2) of the Code, bearing IA No. 1083 of 2023, which was listed before this Adjudicating Authority on 21.02.2023, and notices were issued to all Suspended Directors. Despite service of notice to the Suspended Director, they have failed to either file a reply or appear before this Adjudicating Authority.
- vii.** As there was no meaningful cooperation from the Suspended Board of Directors and no timely response to repeated emails and calls, the Applicant physically visited the registered office of the Corporate Debtor, situated at 1102-A, Pearls Business Park Netaji Subhash Place, Pitampura, North West Delhi, New Delhi – 110034, for the purpose of verifying whether the Corporate Debtor was carrying on business operations from the said address, and to take control of its physical assets and records.
- viii.** Upon such visit, it was found that the said office was sealed by the Enforcement Directorate and was not in operation. No person was available at the site, and no records or documents of the Corporate Debtor could be obtained.
- ix.** The Applicant submitted that currently, no physical assets of the Corporate Debtor are available. It was further submitted that the last available financial statements on record pertain to the financial year 2015–2016. The Applicant also submitted that the land and building situated at B-87, Sector-64, Noida, belonging to the Corporate Debtor, were sold by the State Bank of India under the SARFAESI Act around December 2019.

- x.** The first meeting of the Committee of Creditors was convened on 02.02.2023. Notice of the meeting was duly circulated to the sole Financial Creditor, State Bank of India, and to the Suspended Directors. In the said meeting, the sole member of the CoC, State Bank of India, was present; however, none of the Suspended Directors attended. The CoC noted the constitution of the Committee of Creditors and the non-cooperation by the Suspended Directors. It was further recorded by the CoC that no assets or operations existed in the Corporate Debtor and that it would be appropriate if the Corporate Debtor could be put into liquidation.
- xi.** The second meeting of the Committee of Creditors was convened on 28.02.2023. Notice of the meeting was duly circulated to the State Bank of India, being the sole member of the CoC, as well as to the Suspended Directors. A representative of the State Bank of India attended the meeting; however, none of the Suspended Directors were present. In the said meeting, the CoC noted the filing of the application under Section 19(2) of the Code and the appointment of valuers.
- xii.** The third meeting of the Coc was held on 19.06.2023, attended solely by the representative of the State Bank of India (SBI), the only CoC member. Suspended Directors and operational creditors were absent. The CoC reviewed updates on claims, valuation, and a pending Section 19(2) application. The key agenda was the consideration of liquidation; however, due to the absence of assets, records, operations, and personnel, and the unfeasibility of liquidation in light of existing CIRP costs and lack of recoverable value, the CoC discussed and unanimously recommended Dissolution of the Corporate Debtor instead of liquidation. Accordingly, the Resolution Professional was authorised to file an application under Section 54 of the IBC for dissolution.
- xiii.** The Applicant placed reliance on the settled position that, in cases where there are no assets to liquidate and no prospects of revival, the

Adjudicating Authority is empowered to directly dissolve the Corporate Debtor under Section 54 of the Code, without undergoing the liquidation process. In support of this proposition, the Applicant cited the following decisions, where there were no assets, no operational business, and continuation of CIRP or liquidation was deemed economically impractical, the various co-ordinate benches of this Adjudicating Authority, were pleased to dissolve the Corporate Debtor and discharge the Resolution Professional:

- i. MA/238/2018 in CP/187/IB/2018 (NCLT Chennai)
 - ii. MA/540/2019 in CP/490/IB/2018 (NCLT Chennai)
 - iii. CA/562/2019 in CP/920/ND/2018 (NCLT New Delhi)
 - iv. IA/2227/2020 in CP/1148/ND/2019 (NCLT New Delhi)
 - v. IA/198/2020 in CP/180/BB/2018 (NCLT Bengaluru)
 - vi. IA/949/KB/2022 in CP/835/KB/2018 (NCLT Kolkata)
 - vii. IA/134/KOB/2021 in IBA/22/KOB/2020 (NCLT Kochi)
3. Pursuant to the order dated 20.08.2024, notice was issued to the Registrar of Companies and the Income Tax Department to file their responses. However, despite service and multiple opportunities, no appearance or reply was filed by either authority, this Adjudicating Authority, vide order dated 25.04.2025, recorded the continued non-appearance and directed that both the Registrar of Companies and the Income Tax Department be proceeded against ex parte.
4. Vide order dated 20.08.2024, this Adjudicating Authority, upon being informed by the Learned Counsel for the Resolution Professional that the registered office of the Corporate Debtor was sealed by the Directorate of Enforcement (“ED”) and was not in operation, directed issuance of notice to the Director, Directorate of Enforcement.
5. The ED filed their reply to the present Application and has opposed the dissolution of the Corporate Debtor, M/s Shakti Bhog Foods Limited, in view of the ongoing proceedings under the Prevention of Money Laundering Act, 2002 (PMLA) against M/s Shakti Bhog Foods Ltd.

(SBFL) and its group entities including M/s Shakti Bhog Snacks Ltd. (SBSL), pursuant to ECIR/DLZO-I/12/2021 dated 31.01.2021. The ED submitted that SBFL defaulted in repaying its loan obligations, and its account was classified as a Non-Performing Asset (NPA) as on 31.03.2015. The total outstanding dues to the consortium of banks stand at approximately ₹3,269.42 crores as on 31.03.2020 after accounting for realizable securities.

6. The Ed submitted that M/s Shakti Bhog Snacks Limited is a group company of M/s Shakti Bhog Foods Limited. Investigation revealed that the said company, along with M/s Shakti Bhog Foods Limited, was involved in the activities related to money laundering. M/s Shakti Bhog Snacks Limited was used by M/s Shakti Bhog Foods Limited to rotate its loan funds against bogus invoices. It was submitted that company layered and siphoned off the proceeds of crime received from SBFL and further transferred them to the directors/promoters of SBFL and their relatives.
7. It was submitted by the Ed that SBSL is a group company of SBFL wherein Mr. Kewal Krishan Kumar, Mr. Siddharth Kumar, Ms. Sunanda Kumar, and Mr. Bharat Lal Shukla (an employee of SBFL) were acting as directors. Ms. Sunanda Kumar and Mr. Bharat Lal Shukla were made Directors for namesake only. Operations of the firm were controlled and managed by Kewal Krishan Kumar and Siddharth Kumar, since minimum genuine business activities were conducted in this company. The company maintained several bank accounts, bearing A/c No. 911020027670465 with Axis Bank, A/c No. 042305000350 with ICICI Bank, A/c No. 2530 with Indraprastha Bank, A/c Nos. 62010758619, 64004292210, and 63003943976 with State Bank of India, which were used in routing loan funds of SBFL.
8. The ED submitted that SBSL acquired and possessed proceeds of crime to the tune of ₹97.87 crores from six group entities of SBFL, namely M/s Bhawna Portfolio Pvt. Ltd., M/s Divyarth Leasing & Finance Pvt. Ltd., M/s Divyashakti Hospitality Pvt. Ltd., M/s Fruto Fresh Industries Pvt.

Ltd., M/s Pearl Agro Food, and M/s Sunanda Polymer, and transferred funds to the tune of ₹127.81 crores to these group entities from FY 2007–08 to 2014–15 in the guise of investment and sale-purchase. It was submitted that these transactions were reflected in the books of accounts as sale, purchase, and investments and were projected as untainted revenue of SBFL and its group companies.

9. The ED further submitted that SBSL carried out these transactions without any actual movement of goods. The group companies of SBFL involved in these transactions were shell entities, and no genuine business activities were conducted therein. These transactions were carried out to inflate the financials of SBFL so that more credit facilities could be availed from banks. The ED submitted that, therefore, SBSL was involved in the acquisition, possession, and concealment of proceeds of crime. It was submitted that SBSL was knowingly involved in the process and activity connected with the proceeds of crime, including its acquisition, possession, concealment, and projecting the same as untainted. It also assisted SBFL in such activities, thereby committing the offence of money laundering under Section 3 of PMLA, 2002, punishable under Section 4.
10. The ED also submitted that the Corporate Debtor, M/s Shakti Bhog Snacks Ltd., has been arrayed as an accused in the 5th Supplementary Prosecution Complaint dated 20.09.2024 before the Hon'ble Special Court, PMLA. The Court has taken cognizance of the complaint and issued summons to all accused, including SBSL. The prosecution under the PMLA is pending before the Ld. Special Court.
11. The Ed submitted that during the investigation, the balance in bank account No. 042305000350 (ICICI Bank) in the name of Shakti Bhog Snacks Limited was attached *vide* Provisional Attachment Order No. 05/2021 dated 25.08.2021. This attachment was confirmed by the Ld. Adjudicating Authority, PMLA, vide its order dated 26.05.2022. The Hon'ble Delhi High Court in *Kumar Food Industries Limited v. Union of India*, 2022 SCC OnLine Del 729, held that a bank account in which

proceeds of crime are received is itself "property" and "records" involved in money laundering under Sections 2(1)(v) and 2(1)(w) of the PMLA.

12. The ED submitted that this Adjudicating Authority does not have the jurisdiction to interfere with proceedings under the PMLA, including provisional attachment orders passed by a competent authority under PMLA. Section 41 of the PMLA clearly bars civil courts from entertaining any suit or proceeding in respect of any matter which the Director, an Adjudicating Authority, or the Appellate Tribunal is empowered to determine. No injunction can be granted by any court or authority in respect of any action taken under the PML Act.
13. The ED submitted that the consistent judicial position is that the NCLT and NCLAT lack jurisdiction to adjudicate upon or interfere with actions taken under the Prevention of Money Laundering Act (PMLA), including provisional attachment orders passed by the Enforcement Directorate. This has been unequivocally laid down by the Hon'ble Supreme Court in *Embassy Property* and *Kalyani Transco*, and reiterated by the NCLAT and various NCLT benches in decisions such as *Kiran Shah*, *Ashok Kumar Sarawagi*, *Shimping Technology*, *Manohar Lal Vij*, and *Andhra Bank v. Sterling Biotech*. The proper forum to challenge such actions lies within the statutory mechanisms under the PMLA, not before the NCLT under the Insolvency and Bankruptcy Code.
14. The ED further submitted that the PMLA is a special legislation enacted to combat and regulate the offence of money laundering, and as such, holds primacy over the Insolvency and Bankruptcy Code, 2016 in all proceedings that relate to or arise from acts of money laundering. It is emphasized that the mere initiation of resolution proceedings under the IBC cannot serve as a shield against enforcement actions under the PMLA, as such a proposition would defeat the very object of the statute and allow economic offenders to misuse the insolvency process. The Ed submitted that the Hon'ble Delhi High Court in *Deputy Director, Directorate of Enforcement v. Axis Bank* (2019 SCC OnLine Del 7854) has clearly held that the IBC and PMLA operate in distinct legal fields, and

the former cannot override or nullify proceedings under the latter. The Hon'ble Supreme Court has further recognized economic offences as a distinct category requiring stringent measures and has upheld the special character and overriding nature of the PMLA in cases such as *Y.S. Jagan Mohan Reddy v. CBI* [(2013) 7 SCC 439], *Gautam Kundu v. Directorate of Enforcement* [(2015) 16 SCC 1], and *P. Chidambaram v. Directorate of Enforcement* [(2019) 9 SCC 24]. The Ed submitted that, accordingly, any conflict between the two statutes must be resolved in favour of the PMLA, which is a self-contained code with its own adjudicatory mechanisms and remedies.

15. The Applicant pursuant to the reply filed by the ED, submitted that it was granted liberty vide order dated 22.01.2025 to bring on record the 5th Supplementary Prosecution Complaint under Sections 44 and 45 of the Prevention of Money Laundering Act, 2002 (PMLA), as filed by the ED in prosecution proceedings against the parent/holding company, M/s Shakti Bhog Foods Limited and its promoters.
16. In compliance thereof, the Applicant has brought on record the said Supplementary Prosecution Complaint along with an Affidavit. The Applicant submitted that in the said complaint the Corporate Debtor has been impleaded as an accused only on 20.09.2024 i.e., after a period of 19 months and 18 days from the commencement of CIRP on 03.01.2023.
17. The Applicant submitted that the reference to the Corporate Debtor in the said complaint is confined only to pages 20–21. Further, from pages 91–92 of the complaint, the details of provisionally attached properties are enumerated, none of which pertain to the Corporate Debtor.
18. The Applicant submitted that at page 93 of the 5th Supplementary Prosecution Complaint, it is merely alleged that the Corporate Debtor routed Rs. 97.87 Crores to six entities from the loan funds of its parent company, Shakti Bhog Foods Limited, which along with its Directors (also Promoter Directors of the CD) is already facing PMLA proceedings. However, since no properties of the Corporate Debtor are involved in the

ED proceedings, and the liability, if any, lies with the said individuals, the pendency of such criminal proceedings cannot be a ground to stall the ongoing IBC process.

19. The Applicant further submitted that no substantive property of the Corporate Debtor is under attachment in the said proceedings. The only item attributed to the Corporate Debtor is an ICICI Bank account reflected at Serial No. 29 of the ED's chart (at page 171 of the ED's reply), having a meagre balance of Rs. 3701.81/-. It is submitted by the Applicant that the ED is well within its rights to recover such amount, but it is submitted that the pendency of proceedings for such an inconsequential figure cannot be a valid basis to delay the IBC proceedings.
20. The Applicant submitted that, before the Ld. Special Judge (PC Act), CBI-12, Rouse Avenue Courts, New Delhi, in Complaint Case No. 20/2021 (ED vs. Kewal Krishan Kumar & Ors.), the ED itself stated that it had no objection to the release of properties attached in respect of the parent company which was duly recorded in order dated 23.04.2025.
21. The Applicant further submitted that, the Ld. Trial Court, vide order dated 04.06.2025, has allowed the application of the RP/Liquidator of M/s Shakti Bhog Foods Limited for restoration of attached properties and directed the ED to hand over the assets to the RP/Liquidator. The Applicant submitted that if the ED has not objected to release of properties of the parent company, there remains no rationale to keep the Corporate Debtor's proceedings stalled for a meagre amount of Rs. 3701.81/- lying in a bank account, particularly when no other asset is involved.

FINDINGS AND ANALYSIS:

22. We have heard the Ld. Counsel appearing on behalf of the Resolution Professional and the Ld. Counsel appearing on behalf of the Enforcement Directorate.
23. The present Application has been filed under Section 54 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking dissolution of the Corporate Debtor, M/s Shakti Bhog Snacks Limited ("SBSL"), on the ground that there are no assets, no ongoing business operations, and no scope for revival. The Resolution Professional submits that continuation of the Corporate Insolvency Resolution Process (CIRP) or initiation of liquidation would be futile and economically unviable. The Committee of Creditors (CoC), consisting solely of the State Bank of India, has unanimously recommended dissolution under Section 54 of the Code.
24. Notice was issued to the Registrar of Companies, the Income Tax Department, and the Directorate of Enforcement ("ED") in light of the disclosure that the registered office of the Corporate Debtor was sealed by the ED. While the RoC and ITD failed to respond, the ED entered appearance and has filed a detailed reply opposing the dissolution. It is the consistent stand of the ED that the Corporate Debtor is directly implicated in a large-scale money laundering investigation initiated against its parent company, M/s Shakti Bhog Foods Limited, and other group entities. The ED has placed on record the 5th Supplementary Prosecution Complaint dated 20.09.2024 wherein the Corporate Debtor stands arraigned as an accused, and one of its bank accounts has been attached under the Prevention of Money Laundering Act, 2002 ("PMLA"), with confirmation by the Adjudicating Authority under PMLA.
25. In view of the grave and substantiated allegations of money laundering, the admitted implication of the Corporate Debtor as an accused party in pending proceedings under the Prevention of Money Laundering Act, 2002 ("PMLA"), and the ongoing prosecution before the Hon'ble Special Court, this Adjudicating Authority is of the considered view that allowing

dissolution of the Corporate Debtor at this juncture would be premature, impermissible, and contrary to the settled scheme of law. Dissolution under Section 54 of the IBC results in the Corporate Debtor ceasing to exist as a legal entity. Such a consequence would inevitably frustrate the ongoing criminal prosecution under the PMLA and defeat the authority and jurisdiction of the Ld. Special Court, which is statutorily vested with the power to try offences under the PMLA and adjudicate upon related attachments and confiscation proceedings.

26. It is well established that the PMLA is a special and self-contained legislation designed to prevent, detect, and punish acts of money laundering. It provides for its own adjudicatory framework and overrides any inconsistent provisions of other laws by virtue of Section 71 of the PMLA. The Hon'ble Supreme Court, in *Embassy Property Developments Pvt. Ltd. v. State of Karnataka* and *Kiran Shah v. Enforcement Directorate*, as well as the Hon'ble NCLAT in *Sterling Biotech, Manohar Lal Vij*, and other matters, has clearly held that the National Company Law Tribunal ("NCLT") and the National Company Law Appellate Tribunal ("NCLAT") do not have jurisdiction to interfere with proceedings or orders passed under the PMLA, including attachment orders or criminal prosecution.
27. In view of the foregoing, we are of the considered opinion that permitting dissolution despite the pendency of the Special Court's cognizance over the Corporate Debtor would amount to judicial overreach and would impair the ED's ability to complete its investigation, pursue trial, and recover proceeds of crime. This Adjudicating Authority cannot assume jurisdiction in a manner that would render the Corporate Debtor unavailable for criminal liability, particularly when it stands named as an accused, and assets, however meagre, are under attachment. It is not the quantum but the character of the proceedings that is determinative. The IBC cannot be used as a mechanism to frustrate or sidestep the legitimate process of law under the PMLA. Accordingly, this Adjudicating Authority finds no merit in the request for dissolution and declines to grant the relief sought under Section 54 of the Code.

ORDER:

28. In light of the above facts and circumstances, the prayer(s) sought in the present Application cannot be allowed and hence, **IA-3695-2023 In IB-1713-2019**, hereby stands **dismissed**.

29. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

No order as to costs.

Sd/-

**DR. SANJEEV RANJAN
MEMBER (TECHNICAL)**

Sd/-

**BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**