
(2023) 05 NCLT CK 0053

In the National Company Law Tribunal

Case No : CP(IB)-442/MB/2021

Allied Marine Spares Private Limited Vs

Date of Decision : 16-05-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 59, 59(7)
Insolvency and bankruptcy Board of India (Voluntary Liquidation Process) Regulation, 2017 — Regulation 14, 34, 38

Citation : (2023) 05 NCLT CK 0053

Hon'ble Judges : Kishore Vemulapalli, Member (J); Prabhat Kumar, Member (T)

Bench : Division Bench

Advocate : Jaykumar Arlani

Final Decision : Disposed Of

Judgement

Prabhat Kumar, Member (Technical)

1. This is a Company Petition filed under Section 59 of the Insolvency and Bankruptcy Code, 2016, (hereinafter called "Code") on 29.01.2021 by a Corporate person, named Allied Marine Spares Private Limited through Mr. Jaykumar Arlani, the Liquidator, an Insolvency Professional having registration no IBBI/IPA-001/IP-01582/2018-19/12443, to seek dissolution consequent upon voluntary liquidation of the Corporate Person under IB Code. The Corporate Person has complied with requisite formalities and procedure of liquidation as per law and has filed this Petition for its dissolution under section 59 of the Code.
2. The Petitioner Company was incorporated under the provisions of Companies Act, 1956 on 08.05.2018 as private company limited by shares with Registrar of Companies, Mumbai. The Authorised Share Capital of the company is ₹ 1,00,00,000/- divided into 10,00,000 Equity Shares of ₹ 10/-each. The Issued, Subscribed and Paid-up Share Capital of the Company is ₹ 25,00,000/- divided into 2,50,000 equity shares of ₹ 10/- each. The Registered office of the Company is situated at office No. 793/2, Gala:2, Gr. Floor, Bldg: 43, Indian Corporation Dapode, Bhiwandi, Thane – 421302, Maharashtra.

3. The Company, at present has two directors; Ms. Manisha Hemant Dutta (DIN: 03526279) and Mr. Hemant Dutta (DIN: 08128236). It is submitted that the Company entered into just one transaction of supply and is not carrying on any business since more than three years and not earning any profits. Accordingly, the Board of Directors (BoD) of the Company in their meeting held on 04.10.2019 resolved to voluntarily liquidate the Company.
4. All the Directors of the company have declared on Affidavit dated 04.10.2019 that they have made full inquiry into the affairs of the Company and are of the opinion that the Company has no debts and the Company is not being liquidated to defraud any person. The Directors have appended to the affidavit above, audited financial statements and records of business operations of the Company of previous two financial years viz. year ended 31.03.2020 and 31.03.2021. The details above have been filed by the Company with the Registrar of Companies in Form no GNL2- vide SRN No T06174643 on 19.10.2019.
5. The members of the Company in their Extra Ordinary General Meeting held on 07.10.2019 passed a Special Resolution to liquidate the Company voluntarily and to appoint Mr. Jaykumar Pesumal Arlani, an Insolvency Professional, as Liquidator, having registration No.: IBBI/IPA-001/IP-01582/2018-19/12443, for a remuneration of ₹ 1,20,000/- (Rupees One Lakh Twenty Thousand Only) exclusive of costs of engaging other professionals, statutory expenses, expenses incurred on publication of notices, other incidental expenses and applicable, for performing the job of liquidation of the Corporate Person as required under Section 59 of the Code.
6. The Liquidator made a public announcement of liquidation in Form A of Schedule I as per regulation 14 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 in the Financial Express (Mumbai Edition, English newspaper) and in Navrashtra (Mumbai edition, Marathi newspaper) on 10.10.2019 inviting for the submission of claims due, to Allied Marine Spares Private Limited, by various stakeholders. The aforesaid public announcement was submitted to Insolvency and Bankruptcy Board of India (IBBI).
7. The Petitioner has submitted the resolution for the commencement of liquidation, the appointment of a liquidator and a public announcement made in the newspaper to the Registrar of Companies in Form MGT 14 and Form GNL 2, which is annexed to the Company Petition.
8. The Liquidator did not receive any claims from the operational creditors, financial creditors, workmen, employees and other stakeholders towards the advertisement published in the newspaper.
9. The Petitioner notified the Registrar of Companies, Mumbai and the IBBI, New Delhi about the passing of a Special Resolution to liquidate the Petitioner Company.

10. The Liquidator has intimated his appointment to the Income Tax Authority on 14.10.2019. No communication was received back from the department. Copy of the letter along with registered post receipt is enclosed with the Petition. The IBBI, vide Circular No.: IBBI/LIQ/45/2021 dated 15.11.2021 has dispensed with the condition of NOC from Income Tax Department, and, the liquidator has confirmed that no tax dues are payable as per Income Tax portal.

11. As per regulation 34 of IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator duly converted the current bank account into liquidation account in the name and style of "Allied Marine Spares Private Limited in Voluntary Liquidation" in HDFC Bank Ltd. The said Account was also closed on 05.05.2020.

12. The Liquidator has submitted his Final Report dated 02.06.2020 as required under Regulation 38 of IBBI (Voluntary Liquidation Process) Regulation, 2017, along with the Petition. In the report, the Liquidator has stated that the company is not doing any business; (a) there were no fixed assets on the date of commencement of voluntary liquidation. Only assets were bank balance and Advance payment of expenses. The same have been disposed off for payment to stakeholders and liquidation expenses; (b) creditors of the corporate person as on the commencement of voluntary liquidation were NIL. Thus, the debt of the corporate person has been discharged to the satisfaction of all the creditors; and (c) no litigation is pending against the corporate person, (d) sale statement is not prepared and attached as there is no sale of assets; and (e) all the assets have been distributed to the stakeholders after deduction of Liquidation Expenses.

13. The Auditor's Certificate dated 20.05.2020 on the liquidation accounts of the Company, showing receipt and payments pertaining to liquidation since liquidation commencement date i.e. 07.10.2019 till 31.03.2020.

14. The Liquidator has filed this petition before this Tribunal under Section 59(7) of IBC seeking an order of dissolution of the Petitioner company.

15. On examining the submissions made by the Liquidator and the documents annexed to the petition, it appears that the affairs of the company have been completely wound up, and its assets have been completely liquidated.

16. In view of the above facts and circumstances and the submissions made by the Liquidator, the Company deserves to be dissolved. Accordingly, the company viz. Allied Marine Spares Private Limited is hereby dissolved.

17. The Petitioner is further directed to serve a copy of this order upon the Registrar of Companies, with which the company is registered, within fourteen days of receipt of this order. The Registrar shall take necessary action upon receipt of a copy of this order.

18. Accordingly, C.P.(IB)-442/MB/2021 is allowed and disposed of.