(2023) 04 NCLT CK 0001

In the National Company Law Tribunal

Case No : CP (IB) No.48/MB-IV/2023

E Ruttonsha Private Limited Vs

Date of Decision : 12-04-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 59, 59(3), 59(7)
Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 — Regulation 9(1), 14, 34, 38

Citation : (2023) 04 NCLT CK 0001

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

Bench : Division Bench

Advocate : Prachi Wazalwar

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") by a Corporate person, named E Ruttonsha Private Limited [CIN: U30200MH1949PTC007331 through Liquidator Mr. Ajay Kumar, the Insolvency Professional, having registration no: IBBI/IPA-002/IP-N00139/2017-18/10377, to initiate voluntary liquidation proceedings under 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, 2013, on 23/07/1949 as a private company limited by shares with Registrar of Companies, Mumbai. The Authorized Share capital of the company is Rs. 10,00,000/- divided into 10,000 equity shares of ☐ 10/- each. The Paid-up Share Capital of the Company is Rs.5,81,700/- divided into 58,170 equity shares of ☐ 10/-each. The Registered office of the Company is situated at c/o HFK Madan & Company, Chartered Accountants, 30 Oriental Insurance Building, 31, Dr. V.B Gandhi Mumbai MH.

3. The Company, at present, has two directors Mr. Havovi Ruttonsha Khanna (DIN: 01423167) and Ms. Banu Rutton Ruttonsha (DIN: 02855358). It is sumbitted that the Company is not carrying any business and not earning any profits. Accordingly, the Board of Directors (BOD) of the Company in their meeting held on 29.11.2017 resolved to voluntarily liquidate the Company.

4. Mr. Havovi Ruttonsha Khanna and Mr. Banu Rutton Ruttonsha, both the Directors of the Company have declared on Affidavit dated 29.11.2017 that as per section 59(3) of the IBC, 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 record of business operations of the Company of previous two financial years viz. year 2016-17 and 2017-18. The details above have been filed by the Company with the Registrar of Companies in form no. GNL-2 vide SRN No F43693696 on 15.11.2022.

5. The members of the Company in their Extra Ordinary General Meeting held on 08.12.2017 passed a Special Resolution to liquidate the Company voluntarily and to appoint Mr. Ajay Kumar, the Insolvency Professional, having registration no: IBBI/IPA-002/IP-N00139/2017-18/10377 with a remuneration of Rs. 3,00,000/- plus applicable rates of GST for performing the job of liquidation of the Corporate Person as required under section 59 of the Code.

6. Thereafter, the Petitioner submits that Mr. Ajay Kumar, Liquidator submitted declined to act as Liquidator. The members of the Board accepted his resignation and passed another Special Resolution to appoint Mr. Rakesh Chaturvedi, the Insolvency Professional, having registration no: IBBI/IPA-001/IP-P00242/2017-18/10471 with a remuneration of Rs. 3,00,000/- plus applicable rates of GST for discharging the functions of liquidator of the Corporate Person in the Voluntary Liquidation Process as required under section 59 of the Code.

7. The Liquidator made a public announcement of commencement 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 Business Standard and Lakshdeep (Marathi, Mumbai Edition) on 09.12.2017 inviting for the submission of claims due to “E Ruttonsha Private Limited” by various stakeholders. The aforesaid public announcement was submitted to Insolvency and Bankruptcy Board of India (IBBI).

8. 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 E-Form MGT-14 vide SRN No. T19071810 on 15.05.2021.

9. The Petitioner notified the Registrar of Companies, Mumbai and the IBBI, New Delhi, Income Tax about the passing of a Special Resolution to liquidate the Petitioner Company.

10. The Liquidator did not receive any claims from the operational creditors, financial creditors, workmen, employees and other stakeholders under the advertisement published in the newspaper.

11. The Petitioner submits that the Company doesn't have any Creditors, hence their consent for Special Resolution is not required.

12. The Liquidator has intimated his appointment to the Income Tax Officer, and also that the Liquidator has taken into custody or control all assets, property, effects and actionable claims of the company and will be operating the bank accounts of the company for and on behalf of the company. The Petitioner has submitted the "No Objection Certificate" issued by Income Tax Department, Mumbai on 03.05.2021 wherein it is stated that no dues are pending against the Petitioner Company.

13. As per regulation 34 of IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator had duly opened a Bank Account in the name and style of "E Ruttonsha Private Limited"– In Voluntary Liquidation" in Union Bank of India. The said Account was also closed.

14. The Liquidator submitted his Preliminary Report dated 05.12.2018 as required under Regulation 9(1) of IBBI (Voluntary Liquidation Process) Regulation, 2017, during the hearing. In the report, the Liquidator has stated that the company is not doing any business and its books of accounts reflect that the company does not have any liabilities and Creditors nor there are any realizable assets.

15. The copy of the final report dated 07.11.2022 of the Liquidator is annexed to the petition, which shows the realization and payment to the members of the Company, containing the details as required under regulation 38 of IBBI (Voluntary Liquidation Process) Regulation, 2017. The said final report of the Liquidator is submitted with the Registrar of Companies and sent to IBBI.

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

17. On examining the submission made by the counsel appearing for the petitioner 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.

18. In view of the above facts and circumstances and the submissions made by the Liquidator the Company deserves to be dissolved. Accordingly, we direct that the company shall be dissolved from the date of this order.

19. 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.