(2020) 02 NCLT CK 0117

In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : (IB) No. 2912/ND Of 2019

In Re: Arun Mohan, Accelerated IT Solutions Private Limited Vs

Date of Decision : 10-02-2020

Acts Referred:

Insolvency And Bankruptcy Code, 2016 — Section 59(3), 59(7), 59(8)
Insolvency Bankruptcy Board Of India (Voluntary Liquidation Process) Regulations, 2017 — Regulation 8, 9, 10, 14, 25, 38(3)

Citation : (2020) 02 NCLT CK 0117

Hon'ble Judges : Mohd. Sharief Tariq, J;Saroj Rajware, Member (Technical)

Bench : Division Bench

Advocate : Avdesh Bairwa

Final Decision : Disposed Of

Judgement

Mohd. Sharief Tariq, J

1. Under adjudication is IB- 2912/ND/2019, that has been filed by Dr. Arun Mohan (hereinafter referred to as 'Applicant/Liquidator') under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as IBC, 2016), r/w Regulation 38 (3) of Insolvency Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, (hereinafter referred as IBBI, Regulations), in relation to 'Accelerated IT Solutions Private Limited' (hereinafter referred to as 'Company under Liquidation/Company').

2. The prayers made by the Applicant/Liquidator are as follows: -

i. That this, tribunal may pass the winding up Order of the Company and;

ii. Pass such further order or orders as deem fit and proper.

3. It is stated that the Company viz., 'M/s. Accelerated IT Solutions Private Limited', was incorporated on 22.01.2008 under the provisions of the Companies Act, 1956. The Company Identity Number is U72300DL2008PTC172969 and has its registered office at BQ-13, Shalimar Bagh, West, New Delhi- 110088. The Company under Liquidation is a private Company limited by shares.

4. The Company under Liquidation is engaged in the business of trade, store, sell, repair, distribute, maintain, import, export, in computer software and hardware, information technology machines, floppy diskettes, printers, computer and information technology related peripherals, accessories and components.

5. It is averred that since last three years the Company under Liquidation has closed business operations as it was found to be commercially and economically unviable venture. Considering the said circumstances, the Board of Directors of the Company proposed to voluntarily windup the affairs of the Company.

6. The Board of Directors in the interest of the shareholders passed a resolution on 25.01.2019 for winding up of the Company. Further, the Board of Directors prepared the Declaration of Solvency under Section 59(3) of the IBC, 2016 on 25.01.2019, wherein it is stated that they have made a full inquiry into the affairs of the Company and they have formed an opinion that the Company has no debts. The company is being proposed to be wound up through voluntary liquidation and the Company is not being liquidated to defraud any person. The Copy of the Declaration is placed on record.

7. An Extra Ordinary General Meeting (EGoM) was convened on 21.02.2018 for taking on record approval of the proposal for voluntarily winding up of the affairs of the Company and appointment of the Insolvency Professional to act as Liquidator. A Special Resolution was passed in the EGoM for appointment of Dr. Arun Mohan having Registration Number IBBI/IPA-002/N00740/2018-2019/12349 (Liquidator). The said Special Resolution was filed with the Registrar of companies NCT of Delhi and Haryana (RoC) in Form MGT-14 vide SRN- H45629243.

8. The Liquidator made public announcement in both English and Hindi newspaper namely, Financial Express and Jansatta respectively on 23.02.2019, in accordance with Form-A of Schedule I of Regulation 14 of the IBBI, Regulations.

9. It is noted that there were 3 (Three) Shareholders who were present in the meeting and have voted in favour of the proposal for voluntary liquidation of the Company. It is submitted that the Company does not owe any debt to any creditor and therefore, there is no requirement of obtaining No-Objection Certificate from the Creditors.

10. The Liquidator has opened bank account with Punjab National Bank, New Delhi, (Bank Account) in the name of the Company for receiving all the moneys and for meeting all the liquidation cost. The Liquidator has not received any claims from any Creditor or any other Person. The Bank Account on the request of the Liquidator was closed on 03.10.2019.

11. The Liquidator has submitted Preliminary Report to the Company under Regulation 9 of the IBBI, Regulation on 02.04.2019, and placed the same record.

12. The Liquidator received 'No dues certificate' from the Income tax Officer Ward -1 (3) on 10.07.2019 towards winding up of the Company, wherein it is

observed that there is no demand outstanding against the Company. The certificate is placed on record.

13. The Liquidator has received a certificate from the 'ASRT & Associates, Chartered Accountants', certifying that as per the statements and records furnished by the Liquidator as on 03.10.2019, there are no assets/ liabilities appearing in the books.

14. It is stated that the Liquidator has not disposed of any assets of the Company from the commencement of the liquidation and after meeting the liquidation cost distributed the surplus to the contributors via cheques. The certified true copy of Bank Statements is placed on file. The Liquidator has remitted final residual distributable proceeds to all stakeholders after adjusting/ setting off advance given by the Company for investment of new ventures in terms of the Regulation 25 of the IBBI Regulations.

15. It is stated that the Liquidator has completed the liquidation process within 12 months from the date of commencement. The Liquidator has filed the Final Report with the IBBI and with the concerned RoC on 07.10.2019 in Form GNL-2. Further, the Compliance Report is also placed on file.

16. In view of the above all necessary compliances are met by the "Company under Liquidation" and the Liquidator. Therefore, this Authority in exercise of the powers conferred under Sub-section (8) of Section 59 of IBC, 2016, do hereby orders the dissolution of the Corporate Person viz., 'M/s. Accelerated IT Solutions Private Limited' from the date of this Order i.e. 07.02.2020. Accordingly, the Corporate Person stands dissolved and the Liquidator stands relieved, who is directed to preserve a physical or an electronic copy of the reports, registers and Books of Account referred to in Regulations 8 and 10 of IBBI (Voluntary Liquidation Process), Regulations, 2017, for at least 8 (eight) years after the dissolution of the Corporate Person, either with himself or with an information utility.

17. The Registry will forward a copy of this Order to the RoC, with which the Corporate Person is registered. Accordingly, IB- 2912/ND/2019 stands disposed of.

18. The Order is pronounced in open court.