(2020) 06 NCLT CK 0018

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

Case No : (IB)-388/ND Of 2020

In Re: Tri Vision Trading Private Limited Vs

Date of Decision : 23-06-2020

Acts Referred:

Income-Tax Act, 1961 — Section 178
Insolvency And Bankruptcy Code, 2016 — Section 59, 59(3), 59(7)
National Company Law Tribunal Rules, 2016 — Rule 11
Insolvency And Bankruptcy Board Of India (Voluntary Liquidation Process) Regulations, 2017 — Regulation 8, 10, 9, 14, 14(3)(c), 30, 38

Citation : (2020) 06 NCLT CK 0018

Hon'ble Judges : Abni Ranjan Kumar Sinha, J;Kapal Kumar Vohra, Member (Technical)

Bench : Division Bench

Advocate : Anup Kumar

Final Decision : Allowed

Judgement

Abni Ranjan Kumar Sinha, J

1. This application is filed by the Voluntary Liquidator under section 59(7) of the Insolvency and Bankruptcy Code, 2016 (Code) read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (IBBI Regulations) seeking dissolution of M/s. Tri Vision Trading Private Limited (herein referred to as the ("Company").

2. The aforesaid Company is a private limited company incorporated on 17.03.201 1 under the provisions of Companies Act, 1956 with the objectives of business "Salon & Spa". The registered office of the Company is presently situated at Flat No. 1, Lower Ground Floor House No. 45, Road No. 71, West Punjabi Bagh, New Delhi-110026 which lies within the territorial jurisdiction of this Bench.

3. The following averments have been made in the petition:-

a. In a meeting of the Board convened on 03.09.2019, a resolution was passed to initiate voluntary winding up of the Company and for appointing a Liquidator as no business was conducted by the company from the past two years and it does not have any employee, hence no ones interest is likely to be affected. A declaration of Solvency dated 23.10.2019 was signed by the Director's as per requirement of Sec 59(3) of the Code. The e-Form MGT-14 was filed with the Registrar of Companies, NCT of Delhi vide SRN: R07350705 dated 23.10.2019.

As per declaration of solvency, the Company do not have any creditors (secured or unsecured), hence meeting/consent of the creditors was not required as per the provisions of Section 59(3) of the Code for approving the resolution for voluntary liquidation.

b. Pursuant to the provisions of Section 59 and other applicable provisions of the Code, the EGM of the Members of said company was held on 26.09.2019, special resolution was passed whereby Mr. Anup Kumar, Insolvency Professional having IP Registration No. IBBI/IPA-002/IP-N00333/2017-18/10911 was appointed as the Voluntary Liquidator of the Company.

The special resolution passed in the EGM was filed with the RoC in form MGT-14 vide SRN-R07348626 dated 23.10.2019.

c. As per the requirement of Regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the voluntary liquidator published a notification in the newspaper, namely, "Financial Express" in English dated 04.10.2019 and "Jansatta" in Hindi dated 10.10.2019 respectively. In terms of the Regulation 14(3)(c) of the IBBI Regulations, the liquidator served a copy of public announcement to IBBI to be published on its official website on 10.10.2019.

In terms of Regulation 30, it is submitted that no claims were received from any stakeholder and as per books (declaration of solvency), no liability has been reported, hence no amount was paid or provisions has been made for any claimant.

d. The Liquidator has also sent intimations to all statutory authorities i.e. ROC, RBI and Income Tax Authority etc.

e. The commencement of liquidation, appointment of liquidator and the public announcement made in newspapers was submitted to the RoC on 23.10.2019 and 30.10.2019 in Form MGT-14 and Form GNL-2.

f. The bank account No. 1349256000828 of the Corporate Debtor maintained at HDFC Bank Punjabi Bagh New Delhi-110026 was closed on 06.11.2019. There are no dues as per the audited balance sheet of Corporate Debtor.

g. In terms of Regulation 9 of the IBBI Regulations, the voluntary liquidator submitted a preliminary report to the company on 08.11.2019 and was sent to the IBBI by hand on 06.12.2019.

h. As per provisions of Section 178 of the Income Tax Act, 1961, the liquidator intimated the commencement of liquidation and appointment of liquidator to the

Income Tax Authority on 05.10.2019 and no objection certificate was received from Income Tax Department on 25.10.2019.

i. Accordingly, in terms of Regulation 38 of the IBBI Regulations, the voluntary liquidator submitted the final report to the IBBI and ROC on 06.01.2020 in E-Form GNL-2 vide SRN: R29658119 dated 09.01.2020.

4. As per the order of this Adjudicating Authority dated 30.01.2020, the petitioner was directed to make fresh public announcements in English and Hindi newspaper to invite the claim of creditors. Accordingly, the petitioner has filed a service affidavit dated 29.02.2020 in compliance of the same. Further, the petitioner has attached the copies of public announcements made in the newspapers "Financial Express" in English and "Jansatta" in Hindi dated 04.02.2020. He further affirmed in the affidavit that he has not received any claims from the creditors or opposition to oppose present application for dissolution upto 02.03.2020.

5. In view of the foregoing steps taken and the satisfaction accorded by the voluntary liquidator by way of the present application, there is no legal impediment in allowing the prayer of the applicant. Accordingly, we hereby allow the Prayer of Liquidator to dissolve the Company U/S 59(7) of IBC and the said company is hereby dissolved with effect from the date of the present order. The Liquidator is directed to preserve a physical or Electronic copy of the reports, registers, books of account referred to in Regulation 8 and 10 for at least eight years after the dissolution of the corporate person, either with himself or with an information utility.

6. So, far the application under Rule 11 of the NCLT Rules, 2016 regarding issuing directions for seeking direction to Respondent HDFC Bank is concerned, the Petitioner is at liberty to file a separate application for the same.

7. A copy of this order be filed with the ROC within the statutory period as per the applicable provisions.

8. File be consigned to the Record Room.

