
(2022) 04 NCLT CK 0031

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

Case No : IB) 60/ND/2022

M/s Kalyan Extraction Private Limited Vs

Date of Decision : 12-04-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 53, 59
Income Tax Act, 1961 — Section 178
Insolvency & Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 — Regulation 14, 14(3)(c), 30, 34, 38

Citation : (2022) 04 NCLT CK 0031

Hon'ble Judges : Dharminder Singh, Member (J); Sumita Purkayastha, Member (T)

Bench : Division Bench

Final Decision : Allowed

Judgement

Sumita Purkasytha , Member (J)

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

2. The aforesaid Company was incorporated under the provisions of Companies Act, 1956 on 03.01.1992 with an authorised share capital of the company was Rs. 50,00,000/- divided into 5,00,000 equity shares of Rs. 10 / - each.

3. The registered office of the Company is presently situated at 839, West End Mall, District Centre, Janakpuri, New Delhi-10058 which lies within the territorial jurisdiction of this Bench. The following averments have been made in the petition: -

a. The main objective of the Company was to carry on the business to manufacture, produce boil, refine, import, sell, purchase in all kinds of oil, oil cake, vegetable ghee.

b. That as there has been no significant business operation in the company, the Board of Directors on 16.01.2021, unanimously decided to voluntarily liquidate the company. For this purpose, an Extra Ordinary General Meeting of the members was held on 10.02.2021 to approve the Voluntary Liquidation of the company and the said decision was made after making a full enquiry into the affairs of the company. Declaration of Solvency filed with the ROC in form GNL-2 on 16.01.2021.

c. Pursuant to the provisions of Section 59 of the Code and other applicable provisions of the Code, the Extra ordinary general meeting passed a special resolution dated 10.02.2021 whereby Mr. Chander Shekhar, an Insolvency Professional was appointed as the Voluntary Liquidator of the Company.

d. The voluntary liquidator has given the required intimation under section 178 of the Income Tax Act, 1961 with the Income Tax Authorities. Copies of the letter dated 13.02.2021 and email on 16.02.2021 along with track consignment report of postal department has been placed on record.

e. 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, " Business Standard" in English and Hindi on 12.02.2021 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. In terms of Regulation 30, it is submitted that no claims were received from any creditor.

f. As per the requirement of Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, it is submitted that a Bank was opened in the name of "Kalyan Extraction Private Limited in Voluntary Liquidation". The said account was closed after distribution of the liquidated assets of the company in accordance with the manner provided in Section 53 of the Act.

g. The Declaration by majority of Directors along with the audited financial statements of the company for the years 31.03.2019, 31.03.2020 and 31.03.2021. h. It is submitted that the affidavits and Indemnity bonds dated 16.12.2021 to 24.12.2021 were furnished by the stakeholders and contributories to the liquidator indemnifying any loss arising out of interim distribution made to them.

i. Further the final distribution was made by the Liquidator among the stakeholders and contributories on 30.12.2021 and the audit of liquidation accounts was completed and an audit report was obtained from an independent auditor on 19.01.2022.

j. Accordingly, in terms of Regulation 38 of the IBBI Regulations, the voluntary liquidator submitted the final report to the IBBI and RoC on 20.01.2022.

4. When the matter was first heard, this Bench had directed that notices be issued to the RoC. The ROC has filed their reply stating that an Affidavit of

Solvency was filed by the Director deposing that the Company was not being liquidated to defraud any person.

5, Pursuant to the service of the notices to the ROC and IBBI, no objection has been raised by them. The voluntary liquidator has filed an affidavit confirming that neither he nor the Company has received any objection with regard to the present liquidation proceedings of the company from any authority whatsoever.

6. The applicant states that necessary compliances of Section 59 and other relevant provisions of the Insolvency and Bankruptcy Code, 2016 read with the regulations have been stated within time, more specifically submission of the Form GNL-2 to the ROC and the intimation to the IBBI vide email, after realisation and distribution of the assets to its members and closure of the Bank account.

7. In view of the foregoing and in view of the satisfaction accorded by the voluntary liquidator by way of the present application, the said company is hereby dissolved with effect from the date of the present order.

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

The petition is accordingly allowed in the above terms.