(2020) 11 NCLT CK 0005

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

Case No : Company Petition No. (IB)-840/ND Of 2020

Rajeev Bambari, Liquidator Of M/S Sterling Fincap Private Limited Vs

Date of Decision : 23-11-2020

Acts Referred:

Insolvency And Bankruptcy Board Of India (Voluntary Liquidation Process) Regulations, 2017 — Regulation 8, 9, 10, 14, 14(3)(c), 30, 38
Insolvency And Bankruptcy Code, 2016 — Section 59, 59(3), 59(3)(b)(i), 59(7), 59(8)
Income Tax Act, 1961 — Section 178

Citation : (2020) 11 NCLT CK 0005

Hon'ble Judges : Dr. Deepti Mukesh J;Narender Kumar Bhola, Member (Technical)

Bench : Division Bench

Advocate : Chetan Gupta, Rajeev Bambari

Final Decision : Allowed

Judgement

1. This application is filed by the 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 Sterling Fincap Private

Limited (herein referred to as the (""Companyâ??).

2. The aforesaid Company is a private limited company incorporated on 04.04.1988 under the provisions of Companies Act, 1956 with the objectives

of carrying on business of hire purchase, finance, instalment, lease, legal trust and other related fields and finance the enterprises by way of lending

and advancing money for all types of vehicles, machinery, land, building, sheds or such other things as may be required by such business enterprises

either with or without security and upon such terms and conditions as the Company may think fit, to guarantee or sureties for the performance of any agreement or contract. The registered office of the Company is presently situated at Unit No.515, DLF Tower-A, Jasola District Centre, New Delhi-

110025 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 10.01.2020, 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 for several past financial years and A declaration of Solvency dated 10.01.2020 was signed

by the Directorâ??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: R30539308.

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 EoGM of the Members of said company was held on

13.01.2020, special resolution was passed whereby Mr. Rajeev Bhambri, Insolvency Professional having IP Registration No. IBBI/IPA-002/IP-

N00152/2017-18/10399 was appointed as the Liquidator of the Company.

The special resolution passed in the EoGM was filed with the RoC in form MGT-14 vide SRN-R30281554 dated 15.01.2020.

c. The applicant also filed previous two years audited financial statements and record of business of operations of the Company as required under

section 59(3)(b)(i) of the IBC, 2016.

d. As per the requirement of Regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the liquidator published a notification in the

newspaper, namely, ""Financial Express"" and â??Money Makersâ? in English dated 14.01.2020 and 15.01.2020 and â??Dainik Mahalaxmi

Bhagyodayâ? in Hindi dated 15.01.2020 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 16.01.2020.

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.

e. The Liquidator has also intimated the commencement of liquidation and appointment of liquidator to the Income Tax Authority as required under

section 178 of Income Tax Act, 1961 on 28.01.2020 and pursuant to that no objection certificate was issued by the Income Tax Authority and same is

annexed with the application under consideration.

f. The commencement of liquidation, appointment of liquidator and the public announcement made in newspapers was submitted to the RoC, NCT of

Delhi and Haryana in form MGT-14 vide SRN: R30281554 and GNL-2 vide SRN: R30538995.

g. The nomenclature of the bank account no. 00621131001713 of the Company maintained with Oriental Bank of Commerce, Sarai khwaja Branch

was changed on 20.02.2020 for realization and payment to the stakeholders of the Company.

h. In terms of Regulation 9 of the IBBI Regulations, the liquidator submitted a preliminary report to the company on 26.02.2020.

i. Accordingly, in terms of Regulation 38 of the IBBI Regulations, the liquidator submitted the final report to the IBBI through Email and same is

annexed with the application under consideration and the final report was also submitted to the ROC in form GNL-2 vide SRN: R40865289.

4. In view of the foregoing steps taken and the satisfaction accorded by the liquidator by way of the present application, there is no legal impediment in

allowing the prayer of the applicant. Accordingly, as per the section 59(8) of the IBC, 2016, we hereby allow the Prayer of Liquidator to

dissolve the Company U/S 59(7) of IBC and the said company is hereby dissolved and is voluntarily wound up 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 Company, either with himself or with an information utility.

5. A copy of this order be filed with the ROC with which the applicant is registered within a period of Fourteen days from the date of this order as per

section 59(9) of IBC, 2016.

6. File be consigned to the Record Room.

