(2021) 12 NCLT CK 0046

In the National Company Law Tribunal

Case No : C.P.(IB) 426/MB/2021

Shri Subodh Balkrishna Gokhale Vs

Date of Decision : 14-12-2021

Acts Referred:

Insolvency & Bankruptcy Code, 2016 — Section 30(2)(e), 59(3)(a), 59(3)(b)(i), 59(3)(c)(i), 59(6), 59(7)

Insolvency and Bankruptcy of India (Insolvency Resolution Process for Corporate Person), Regulations, 2016 — Regulation 32, 34, 34(1), 38

Citation : (2021) 12 NCLT CK 0046

Hon'ble Judges : Suchitra Kanuparthi, Member (J);Anuradha Sanjay Bhatia, Member (T)

Bench : Division Bench

Advocate : Avinash R. Khanolkar

Final Decision : Allowed

Judgement

Anuradha Sanjay Bhatia, Member (Technical)

1. This is a Company Petition filed under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") by a Corporate Person, namely GEW Asia Private Limited through the Insolvency Professional, namely, Shri. Subodh Balkrishna Gokhale for dissolution of the Corporate Person through voluntary liquidation and accordingly it has proposed for voluntarily winding up under Section 59 of the Code, read with Rules and Regulations therein. The Corporate Person has completed requisite formalities and procedure of liquidation in compliance of law and has filed this Petition for its dissolution under Section 59(7) of the Code.

2. The Corporate Person was incorporated on 17.02.2006, CIN No. U99999MH2006PTC159854, having Registered Office at K S Aiyar & Co, F-7 Laxmi Mills, Shakti Mil, Off Dr. E Morse Road, Mahalaxmi, Mumbai, Maharashtra-400011.

3. The Board of Directors of the Corporate Person by a Resolution dated 09.03.2020 decided to liquidate the company voluntarily. The Board of Directors,

after having made full inquiry into the affairs of the Corporate Person, formed an opinion that the Company has no debt and the Company is not being liquidated to defraud any person and filed a declaration to that effect and also filed declaration of solvency in form GNL-2 with Registrar of Companies, Mumbai on 17.03.2020 as required under Section 59(3)(a) of the Code.

4. The Applicant enclosed the Audited Financial Statement for the latest two Financial Years 2018-2019 and 2019-2020 till 11.03.2020 as provided under Section 59(3)(b)(i) of the Code.

5. On 11.03.2020 the members of the Corporate Person passed a Special Resolution in the Extra-Ordinary General Meeting to liquidate the Company and to appoint Mr. Nilesh G. Shah, as the Liquidator, with a remuneration of Rs. 2,50,000/- exlusive of costs of engaging other professionals, statutory expenses, expenses incurred on publication of notices, other incidental expenses and applicable taxes that may be incurred in the process of voluntary liquidation of the company for performing the job of liquidation of the Corporate Person as required under Section 59 (3)(c)(i) of the Code. There were no creditors in the company, hence the requirement of the Special Resolution being approved

by creditors having 2/3rd value of shares as required under proviso to sub-section (3) of Section 59 does not arise.

6. The Directors, Mr. Malcolm Charles Rae & Mrs. Gillian Ella Rae, has affirmed on affidavit, declaring the solvency of the company. Therefore, it can be said that the company is not liquidated to defraud any person.

7. The Liquidator notified the Registrar of Companies, Mumbai on 17.03.2020 vide Form MGT-14 and IBBI, on 12.03.2020 vide Form A, about the passing of a Special Resolution to liquidate the Corporate Person. Further, the Liquidator has duly intimated the Income-tax Department about the voluntary liquidation of the Corporate Person and as per the IBBI Regulations No. IBBI/LIQ/45/2021 dated 15.11.2021 no objection certificate is required from the Income Tax Department.

8. The Liquidator made a public announcement on 12.03.2020, regarding the liquidation of the Corporate Person in two newspapers one in English and another in vernacular language, calling upon the stakeholders, if any, to submit their claims as required under Regulation 14 of IBBI (Voluntary Liquidation Process) Regulations, 2017 (hereinafter called "IBBI Regulations"). The liquidator did not receive any claims in response to the public announcement.

9. The Applicant had also sought cancellation of the registration of the Corporate Person under various Government Authorities such as GST, VAT and CST.

10. The Liquidator further submits that the Corporate Debtor had its running Current Bank Account with Standard Chartered Bank, M.G Road Branch, Mumbai with Current Account No. 22205294061 which is a Scheduled Bank, in pursuance of the provisions of Regulation 34(1) of the regulations, the Applicant vide its letter dated 12.08.2020 requested the Bank to rename the existing Bank

Accounts to "GEW ASIA PRIVATE LIMITED- In Voluntary Liquidation" and also asked the said Bank to make changes in the signatory details of the Account.

11. The Liquidator submitted preliminary report on 16.04.2020, which stated details of the Capital Structure of the company, shareholding and estimated statement of Assets & Liabilities, the statement confirmed that the bank Balance is Rs. 9,146,208/- there were no liabilities except current liabilities of Rs. 5,852/- and Reserves and Surplus 4,129,060/-. The Liquidator further filed audited accounts of liquidation and the statement in accordance with Regulation 38 IBBI (Voluntary Liquidation Process) Regulations, 2017.

12. There are no fixed assets in the Corporate Person. The assets of the company consist of only Bank Balance of Rs. 9,146,208/- and after meeting the expense for liquidation the Liquidator disbursed the available amount to the shareholders of the Corporate Person.

13. The Liquidator filed final report dated 12.05.2020, stating that liquidation process has been completed by annexing Audited Accounts of liquidation. Finally, the Liquidator filed this Petition alongwith final report and sent a copy of the final report to the Registrar of Companies, Mumbai on 11.03.2021 vide Form GNL-2 and IBBI on 03.02.2021 (Compliance of Section 59(6) of Code, read with Regulation 32 and 34-38 of IBBI Regulations.)

ORDER

14. On the Petition filed by the Liquidator under sub-section 7 of Section 59 of the Code for dissolution of this Corporate Person, we have noticed that the affairs of the Corporate Person have been completely wound up and its assets are liquidated. We are of the considered view that this Corporate Person, through its Liquidator, voluntarily liquidated itself so as to get dissolved, therefore, we hereby dissolve this Corporate Person directing the Liquidator to file this order with concerned Registrar of Companies and IBBI within 14 days thereof. (Compliance of Section 59 (7-9) of the Code).

15. Accordingly, this Company Petition is allowed.