

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)**

CP (IB) No.03/Vol./Chd/J&K/2020

**Under Section 59 of the Insolvency
and Bankruptcy Code, 2016**

In the matter of :

M/s HMT Chinar Watches Limited

having its registered office at
2nd Floor, S.C.O. Block, Industrial Complex,
Bari Brahmana, Jammu,
Jammu & Kashmir-181133
CIN: U29190JK2000PLC002088

...Petitioner Company

Judgment delivered on: 10.03.2022

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

For the Petitioner : Mr. Deepankur Sharma, Advocate

For the Income Tax Department : Mr. Yogesh Putney, Senior Standing Counsel

Per: Harnam Singh Thakur, Member (Judicial)

JUDGMENT

This Company Petition 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 and applicable rules of the National Company Law Tribunal Rules, 2016 ("Rules") by the liquidator of M/s HMT Chinar Watches Limited for dissolution of the Petitioner Company.

2. The aforementioned M/s HMT Chinar Watches Limited is a public limited company incorporated on 04.09.2000 under the provisions of Companies Act, 1956 having CIN: U29190JK2000PLC002088. The registered office of the Company is presently situated at 2nd Floor, S.C.O. Block, Industrial Complex, Bari

Brahmana, Jammu, Jammu & Kashmir-181133, which lies within the territorial jurisdiction of this Bench. The main objects of the company are to deal in the business of all kinds of watches, timepieces, clocks, chronometers, horological instruments and other devices for measuring time and components. The Memorandum of Association and Articles of Association of the Company are attached as Annexure A-1.

3. It is averred that the company was incorporated to carry on business of manufacturing of watches. The company had taken loan from Government of India towards meeting its working capital requirements and also for acquiring fixed assets. Since the losses were piling up and losses were much more than the paid up capital, the Government of India decided to close down the company. Accordingly the Government of India in Ministry of Heavy Industries and Public Enterprises, Department of Heavy Industries issued an order No. 105011/6/2014-PE-X dated 13.01.2016. As per the order the company is to be closed and all the employees are to be relieved. The Government of India decided to write off the loan given to company after its closure, therefore, the DHI/management thought fit to liquidate the Company voluntarily and consequently the shareholders of the Company have unanimously resolved and approved the liquidation of the Company. After considering all the facts and circumstances the company has decided to voluntary liquidate the affairs of the company as per Section 59 of the Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017.

4. The Board of Directors of the Company in its meeting on 26.02.2019 has passed a resolution for Voluntary Liquidation of the Company in terms of Section 59 of the IBC, 2016 and for filing the declaration of solvency for voluntary liquidation as well as for appointing Mr. Akhilesh Kumar Gupta as liquidator of the

company in terms of Regulation 5 of the Regulation, subject to the approval of members in the EOGM in the Company. The copy of extract of the said board meeting dated 26.02.2019 is attached as Annexure- A3 of the petition.

5. The Declaration of Solvency as required under Section 59 (3) (a) of the code was signed by the directors and accordingly filed with the RoC. The copy of e-form GNL-2 along with the challan and declaration of solvency duly signed by the directors is attached as Annexure A-4 of the petition.

6. The petitioner company has filed copies of audited financial statements for the financial year ended on 31.03.2017 and 31.03.2018 as Annexure- A-2 of the petition. It is further submitted that on 25.03.2019 the members of the company (constituting 100%) have passed a resolution in the Extra Ordinary General Meeting (EOGM) approving voluntary liquidation of the company and appointed Mr. Akhilesh Kumar Gupta, Insolvency Professional as Liquidator. Accordingly, the liquidation of the company is deemed to have commenced on 25.03.2019.

7. That in compliance of the provisions of Section 59(4) of the Insolvency and bankruptcy Code, 2016, the special resolution passed on 25.03.2019 by the members of the company were duly notified/filed with the office of concerned Registrar of Companies (ROC) and IBBI. Copies of e-form MGT-14 filed with the office of Registrar of Companies (ROC) along with Challan dated 30.03.2019 are placed as Annexure A-6 of the petition. Also, in terms of section 178 of the Income Tax Act 1961, the liquidator vide letter dated 13.05.2019 informed the Department of Income Tax regarding the liquidation of the company and also about the appointment of the Liquidator. Copy of the intimation given to the Income Tax Department is attached as Annexure A-8 of petition.

8. The Liquidator made public announcement on 29.03.2019 in “Financial Express” (English Newspaper), “Daily Taskeen” and “Vishwani” and on 30.03.2019 in “Hoshidigandha” (Hindi Newspaper) Newspapers inviting claim from the stakeholders, if any as required under Regulation 14 of IBBI (Voluntary Liquidation Process) Regulations, 2017. The Public Announcement was simultaneously notified to the Insolvency and Bankruptcy Board of India (IBBI) vide email dated 29.03.20219 publishing it on its website. It is further submitted that in terms of Regulation 29 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator fixed 23.04.2019 as the last date for submitting the claims by the creditors.

9. It is stated that the Liquidator prepared the list of stakeholders on the basis of claims received from the creditors and after due verification of the same. The liquidator prepared a list of stakeholders and submitted the same before the authorities along with letter dated 06.06.2019. Thereafter, few more claims were received from the creditors and the liquidator prepared a revised list of stakeholders which was submitted vide letter dated 11.10.2019. Copies of initial list and revised list of stakeholders are attached as Annexure A- 9 of the petition.

10. The Liquidator in terms of Regulation 9 of IBBI (Voluntary Liquidation Process) Regulations, 2017 submitted the preliminary report to the company on 07.05.2019. A copy of the preliminary report is attached as Annexure A-10 of the petition.

11. It is further submitted that as per Regulation 37(2) of the IBBI (Voluntary Liquidation Process) Regulations, 2017, in the event of the liquidation process continuing for more than 12 months, the liquidator shall hold a meeting of the contributories of the company within 15 days from the end of twelve months from the liquidation commencement date. Accordingly, the liquidator held a meeting of

contributories on 8/6/2020. It is averred that the annual meeting got delayed due to the lockdown imposed due to COVID pandemic and was conducted after getting the accounts audited, soon after the lockdown was lifted. The final meeting of the contributories was held on 10/8/2020. The copy of notice and the minutes of the meeting of the contributories are attached as Annexure- A-11 of the petition. Additionally, the liquidator also prepared the Annual Status Report as per Regulation 37(2) (b) of the IBBBI (Voluntary Liquidation Process) Regulations, 2017 indicating the complete process made in liquidation and the same is attached as Annexure – A12 of the petition.

12. It is stated that the liquidator noticed from the online portal of Income Tax that certain demands in respect of few years were shown outstanding recoverable from the company though no notice/claim has been received by the liquidator from the Income Tax Department in this behalf. The intimation to that effect were also sent to the Income Tax Department Jammu and Bengaluru respectively with a request to delete/adjust the demands at their end.

13. It is further submitted that the liquidation of the company was undertaken in its terms of Cabinet Committee of Economic Affairs (CCEA) approval dated 06.01.2016 wherein it was approved to write off the loan due to Government of India. It is mentioned that the liquidator once again sought a confirmation from the Ministry vide its letter dated 10.06.2020 that nothing is payable by the company to Government of India (as per CCEA approval dated 06.01.2016) and the Ministry has No Objection in case the entire leftover proceeds are disbursed to its parent/holding company M/s HMT Limited considering Government of India dues as Nil. The Ministry in their reply dated 06.07.2020 confirmed that the entire loan by Government of India alongwith interest to the company will be written off after the company's winding up. The Ministry has no objection for the transfer of

the leftover proceeds of the company to its holding company M/s HMT Limited as it is in the line with the CCEA approval. Moreover, the parent company (M/s HMT Limited) has given an undertaking to pay any liability/tax demand arising in future to the extent the amount received as return of capital and dividend. In case liability exceeds such amount then it will refer the matter to the Ministry of Heavy Industries.

14. It is submitted that in terms of Regulation 38 of the Regulations, upon completion of the liquidation process the liquidator was required to prepare a Final Report containing the details of receipts and payments pertaining to the liquidation since the liquidation commencement date. Accordingly, the liquidator has prepared the Final Report dated 07.08.2020 and submitted the same to the concerned Registrar of Companies and also to the Insolvency and Bankruptcy Board of India (IBBI). A copy of Final Report and Form GNL-2 filed with Registrar of Companies along with acknowledgment regarding its service to IBBI are attached as Annexure A-13 and A-14 of the petition.

15. It is submitted that as per final report dated 07.08.2020 (Annexure A-13), the liquidator has opened a liquidation account with Kotak Mahindra Bank bearing Account no. 4913262647. It is further submitted that the aforesaid bank account has been closed by the liquidator.

16. It is further mentioned that the liquidator has received four claims and out of these 4 claims, Claim of Government of Karnataka- Commercial Taxes Department was admitted partially and claim was settled pursuant to scheme of Comprehensive Karasamdhana Scheme-2019. The entire claim of Assistance Commissioner of Income Tax, Jammu has been settled, Claim of Jaiprakash was also admitted partially and settled and Claim of Sh. Ghulam Ahmad Gujree has been rejected.

17. When the matter was heard on 05.01.2021, this Bench had directed that notices be issued to the RoC, IBBI and the Income Tax Department. The petitioner company has filed affidavit of service vide Dairy No. 00906/01 dated 19.01.2021 showing duly service of notices to the statutory authorities vide speed post.

18. The Income Tax Department has filed its report vide Diary No. Diary No.00906/2 dated 06.05.2021 wherein there has been no objection to the voluntary liquidation of the Company as no proceeding and no liability is pending against the assessee.

19. This bench has again directed the petitioner company to issue notice to the Registrar of Companies (RoC), Jammu & Kashmir, subject to the last opportunity. The petitioner company has filed affidavit of service vide Dairy No. 00906/4 Dated 08.02.2022 wherein notices were issued vide speed post. Original Postal receipt along with tracking report has been filed as Annexure–A of the aforesaid affidavit. Considering the lapse of time in the matter, it is presumed that there is no objection to the statutory authority.

20. We heard the counsel appearing for the Liquidator for the petitioner Company and Income Tax Department and have perused the records and extended provisions of the Code and Rules/ Regulations made thereunder.

21. In the present case, it can be seen that the Company is incorporated to carry on the business of manufacturing of watches and is a subsidiary company of M/s HMT Ltd. The company had taken loan from Government of India towards meeting its working capital requirements and also for acquiring fixed assets. Since the losses were piling up and losses were much more than the paid up capital, the Government of India decided to close down the company. Accordingly the Government of India in Ministry of Heavy Industries and Public Enterprises,

Department of Heavy Industries issued an order No. 105011/6/2014-PE-X dated 13.01.2016. In this background, the members of the company in its EOGM dated 25.03.2019 have also resolved to liquidate the company. Further, the liquidator has informed the concerned authorities i.e. IBBI, RoC and Income Tax Department and has also made paper publication in Form A in two newspapers. The liquidator has also prepared the list of stakeholders after due verification of claims. The Liquidator has completed the final distribution of assets and has also closed the bank account. The voluntary liquidator has also prepared and submitted the final report to the IBBI on 13.08.2020 via e-mail and RoC on 19.08.2020. The Application is duly supported by the affidavit of the Voluntary Liquidator.

22. In view of the discussion foregoing, the applicant Company is hereby dissolved in terms of Section 59(8) of the Insolvency & Bankruptcy Code, 2016 with effect from the date of the present order.

23. The Liquidator is directed to communicate a copy of this order to the Registrar of Companies (Jammu and Kashmir), wherein the registered office of the company was situated. Such Communication should be made within the stipulated period of fourteen (14) days in terms of Section 59(9) of the Insolvency & Bankruptcy Code, 2016 from the date of receipt of certified copy of this order. Further, a copy of this order should also be communicated to the IBBI, New Delhi and other statutory authorities for the information at the earliest.

24. The petition is accordingly allowed and stands disposed of.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

March 10, 2022
HM/SA