



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI**

IB-52/(ND)/2022

Section 59 of the Insolvency and Bankruptcy Code, 2016 Read With
Regulation 9 of The Insolvency And Bankruptcy Board of India
(Voluntary Liquidation Process) Regulations, 2017

In the matter of:

M/s. R S Earthmovers Private Limited

(Through Liquidator Mr. Mast Ram)

L-2 First Floor, Middle Portion, Gali No 1,

L-Block, Mahipalpur EXTN,

South West Delhi, Delhi- 110037

812

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National Company Law Tribunal
New Delhi

Order Delivered on: 04.07.2022

CORAM:

SHRI. P.S.N. PRASAD, MEMBER (JUDICIAL)

SHRI. RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Present-

For the Applicant: Mr. Rakesh Kumar

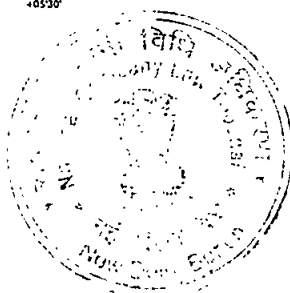
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ORDER

Per P.S.N PRASAD, Member (Judicial)

1. This application is filed by the Voluntary Liquidator, Mr. Mast Ram, who was appointed by the company at its Extraordinary General Meeting held on 31.07.2017 to act as the liquidator of the Company 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) seeking dissolution of M/s. R S Earthmovers Private Limited (herein referred to as the ("Company")).
2. The aforesaid Company was incorporated on 22.09.2004 under the provisions of Companies Act, 1956 with an objective to carry on the business of coal loading, coal transportation and allied materials. The registered office of the Company is presently situated at L-2 First Floor, Middle Portion, Gali No 1, L-Block, Mahipalpur Extn, South West Delhi, Delhi- 110037.

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

- a) That the Board of Directors at the board meeting held on 29.06.2017 passed a resolution to voluntarily liquidate the Corporate Person under the provisions of Section 59 of the Insolvency and Bankruptcy Code, 2016.
- b) That the shareholders of the Company at their Extraordinary General Meeting held on 31.07.2017 passed special resolution to voluntarily liquidate the Corporate Person under the provisions of Section 59 of the Insolvency and Bankruptcy Code, 2016.
- c) That the company at its Extraordinary General Meeting held on 31.07.2017 appointed Mr. Mast Ram, an Insolvency Professional, having IP Registration No. IBBI/IPA-002/IP-N00211/2017-18/10644 to act as the liquidator of the Company.
- d) That pursuant to Regulation 59(4) of the Insolvency and Bankruptcy Code, 2016, the Registrar of Companies of NCT of Delhi and the Insolvency and Bankruptcy Board of India were

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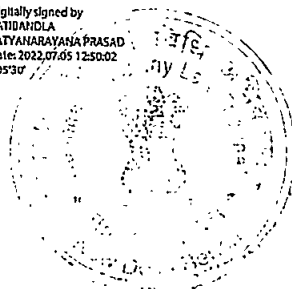


notified within the prescribed time of seven (7) days of passing of the said Resolution.

- 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, "Top Story" in English and "Awam-e-Hind" (Hindi) dated 04.08.2017.
- f) That pursuant to Section 59(3)(a) and (b) the company duly prepared and filed a Declaration of Solvency along with audited financial statements and record of business operations of the company for the previous two years with the Registrar of Companies, NCT of Delhi, in Form GNL-2 dated 27.02.2018, which was duly approved by the said Authority.
- g) That the company further submitted that there were no creditors in the Company as on the Liquidation Commencement Date i.e. 31.07.2017.
- h) That till the last date for submission of claims i.e. 30.08.2017, liquidator has stated that he has not received any claims from any stakeholders and regulatory departments.

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- i) The Liquidator has also sent necessary intimations to all statutory authorities i.e. ROC, RBI and Income Tax Authority etc.
- j) That pursuant to Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the existing bank account maintained by the Company with Axis Bank, bearing Account No. 918020080853118 was converted into Liquidation Account on 26.09.2018.
- k) That pursuant to section 178 of the Income Tax Act, 1961, the Liquidator intimated the Income Tax authorities vide letter dated 18.01.2019 about the initiation of the Voluntary Liquidation process of the Company. The Income Tax Department has stated in its letter dated 09.03.2022 that there is no proceeding pending against the assessee and no tax demand outstanding against the company.
- l) That further in terms of Regulation 37 of the Regulations, as the liquidation could not be completed within the twelve months of the Liquidation commencement date, the liquidator called for the meeting of contributories of the Company on

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31.07.2021 i.e. within the fifteen days of completion of every twelve months and presented Annual Status Report indicating the progress of liquidation of the Company.

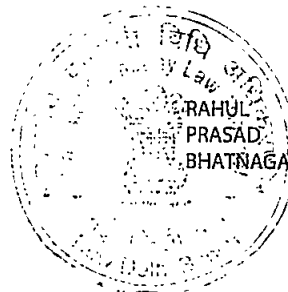
m) That the Liquidator, after meeting the costs of liquidation, distributed the proceeds of realization to the stakeholders, in their capacity as shareholders of the Company, which were debited from the Liquidation bank account in accordance with Section 53 of the Insolvency and Bankruptcy Code, 2016, to the extent of the amount available, in proportion to their respective shareholdings in the Corporate Person.

n) The Applicant submitted that no other assets of the Corporate Person were left to be realized; the liquidator closed the bank account having account number 918020080853118 on 09.07.2021, which was being used in the liquidation process for receipt and payment of proceeds.

o) In terms of Regulation 9 of the IBBI Regulations, the voluntary liquidator submitted a preliminary report to the company on 12.09.2017.

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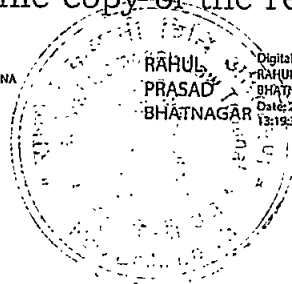
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- p) That pursuant to Regulation 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, Liquidator prepared a Final Report and submitted the same to the Registrar of Companies, NCT of Delhi and the Insolvency and Bankruptcy Board of India on 15.09.2021 along with a copy of the Auditors Certificate on the liquidation, showing receipts and payments pertaining to liquidation since the liquidation commencement date.
- q) The applicant Company submitted that the affairs of the Company have been completely wound up and its assets have been completely liquidated.
4. 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 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,

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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.

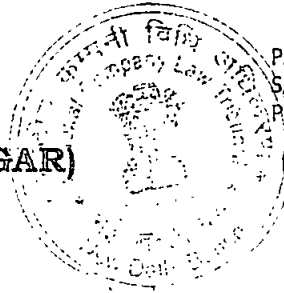
5. A copy of this order be filed with the ROC within the statutory period as per the applicable provisions.
6. File be consigned to the Record Room.

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(SHRI. RAHUL BHATNAGAR)

MEMBER (TECHNICAL)



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MEMBER (JUDICIAL)

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