



**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI**

**CP (IB) No. 3/GB/2022**

**In the matter of:**

Nefa Road Carrier Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 vide CIN: U60230AS2011PTC010764 and having its Registered Office at Shivam Complex Bharalumukh, A T Road, Guwahati, Assam 781009

... Applicant/Petitioner

Versus

Registrar of Companies, NER, Guwahati  
having its Office at 5<sup>th</sup> Floor, Prithvi Planet, Behind  
Hanuman Mandir, Ulubari, G.S Road, Guwahati  
781007, Assam

... Respondent No. 1

And

The Income Tax Department  
Having its office at G.S Road, Christian Basti, Guwahati  
Assam 781006

... Respondent No. 2

**Coram:**

**Hon'ble Shri Deep Chandra Joshi, Member (J)**

**Hon'ble Shri Prasanta Kumar Mohanty, Member (T)**

**Order delivered on 16.09.2022**

**ORDER**

**[Per se: Shri Prasanta Kumar Mohanty, Member (T)]**

1. This present application has been filed by the Petitioner under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 38(3) of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process)

Regulations, 2017 for Dissolution of the Applicant Company i.e. Nefa Road Carrier Private Limited, seeking the following reliefs:

- a. The Applicant Company **“NEFA ROAD CARRIER PRIVATE LIMITED”** (in Voluntary Liquidation) may kindly be ordered to be dissolved.
- b. Issue necessary direction to the ROC to change the status of Corporate Person from under liquidation to dissolved.

2. NEFA Road Carrier Private Limited (Corporate Person) was incorporated under the provisions of the Companies Act 1956, on 8<sup>th</sup> November, 2011 having CIN: U60230AS2011PTC010764, as a private company limited by shares with Registrar of Companies, Shillong. The Authorized Share Capital of the Company is Rs. 10,25,00,000 (Rupees Ten Crore Twenty-Five Lakhs only) divided into 1,02,50,000 equity shares of Rs. 10 each and paid up share capital of Rs. 10,01,00,000 (Rupees Ten Crore One Lakh only) divided into 1,00,10,000 equity shares of Rs. 10 each.

3. The main object of the Company is to carry on the business of Transport operators, carriage agents, and to undertake carriage contracts from Govt. and other private parties and to acquire, maintain, take on hire or acquire on hire purchase basis or on installment system or otherwise all types of Vehicles including truck, buses, trailers etc. for transportation business and to let, sub-let or otherwise carry-on business of goods and passengers.

4. At present there are two directors in the Board of the Company

<b>Sl No.</b>	<b>DIN</b>	<b>Full Name</b>	<b>Designation</b>
1	05105554	Purnanand Pareek	Director
2	07612133	Ghan Shyam Sharma	Director

5. The registered office of the Company is situated at Shivam Complex Bharalumukh, A.T Road, Guwahati, Assam 781009 and the correspondence address of the Company is at present liquidator's office i.e. 4<sup>th</sup> Floor, K.C Choudhury Road, Ram Prasad Complex, Chatribari, Guwahati-781001.

6. The Petitioner submits that:
- 6.1 There have been no significant business operations in the Company for last few years and due to non-availability of business prospects and long-term financial resources, the company has no intention to carry on any business in the future and hence the Board of Directors of the Company considered the matter and decided to voluntarily liquidate the Company and realize the assets, if any of the company and to distribute the proceeds to stakeholders.
  - 6.2 The Board of Directors have made a pragmatic assessment of the affairs of the Company and have reasonable grounds to form an opinion that the Company will be able to pay-off its debts in full from the proceeds of the assets to be sold/appropriated in the Voluntary Liquidation.
  - 6.3 Accordingly, pursuant to the provisions of Section 59 of the Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the Board of Directors proposed and passed Board Resolution at their Board Meeting on 08.01.2022 to voluntarily liquidate the Company and appointed Mr. Amit Pareek, Insolvency Professional (IBBI Registration No. IBBI.IPA-002/IP-N00413/2017-18/11205) as liquidator of the Company.
  - 6.4 Both of the directors of the Applicant Company have furnished a Declaration of Solvency as per Section 59(3)(a) of the IB Code, 2016 along with an affidavit dated 08.01.2022 stating that they have made a full enquiry into the affairs of the Company, and have declared that the Company has no debts and the Company is not being liquidated to defraud any person. The Applicant will be able to pay its liability in full from the proceeds of assets in the voluntary liquidation.
  - 6.5 In compliance to the provisions of the Section 59(3) of the IB Code, 2016 the company has filed Declaration of Solvency along with audited financial statement and record of business operations of the Company for the previous two financial years viz. year ending 31.03.2020 and

31.03.2021 and statement of the Assets and liabilities of the company as on 30.11.2021 being the latest practicable date before making declaration of solvency in FORM GNL-2 with Registrar of Companies vide SRN T73058596 dated 19.01.2022.

- 6.6 Pursuant to the provisions of Section 59(3)(c)(i) of IB Code, 2016 read with VLP Regulations, 2017, members of the Company have approved and passed special resolution at the Extra-Ordinary General Meeting (EOGM) held on 17.01.2022 to voluntarily liquidate the Company and appointed Mr. Amit Pareek Insolvency Professional (IBBI Registration No. IBBI/IPA-002/IP-N00413/2017-18/11205) as liquidator of the Company. There were no creditors in the company, hence the requirement of the Special Resolution being approved by creditors having 2/3<sup>rd</sup> value of shares as required under proviso to sub-section (3) of Section 59 does not arise.
- 6.7 Upon confirmation of the appointment of Mr. Amit Pareek as liquidator and in compliance to the provisions of Regulations 14 of VLP Regulations, 2017 the liquidator made public announcement in Form A of Schedule I in “Amar Asom” (Assamese) and “The North East Times” (English) having wide circulation on 19.01.2022 inviting claims due to Applicant on or before 16.02.2022. The copy of the said public announcement was also submitted to Insolvency and Bankruptcy Board of India (IBBI).
- 6.8 The Company has filed e-form MGT-14 with Registrar of Companies vide SRN T73067167 on 19.01.2022 for filing of special resolution passed under Section 59(3)(c)(i) of IB Code, 2016 for commencement of voluntary liquidation of the Corporate Person/Applicant.
- 6.9 The Liquidator, Mr. Amit Pareek intimated the Registrar of Companies, Guwahati and Income Tax Department on 19.02.2022, intimated Insolvency and Bankruptcy Board of India (IBBI) on 19.01.2022 by registered post with respect to commencement of voluntary liquidation of the Corporate Person. Further there is no demand notice which is

pending against the corporate Person which is apparent from the records of Corporate Person on the Income Tax Site.

- 6.10 The Applicant/Corporate Person maintained two bank accounts with State Bank of India. Out of these two accounts, one accounted converted into Voluntary Liquidation Account and Mr. Amit Pareek, Liquidator of the company has been appointed as sole authorized signatory and other account is closed after its balance amount transfer to the account converted into voluntary liquidation account.
- 6.11 Pursuant to Public Announcement (Newspaper Advertisement) dated 19.01.2022, liquidator has received Claims Forms from 2 of the Equity stakeholders.
- 6.12 Pursuant to the provisions of Section 59(3)(b)(ii) of IB Code, 2016 read with (Voluntary Liquidation Process) Regulations, 2017 the liquidator has appointed Kushal Bharat Bagaria as Valuer for fair valuation of the unquoted shares of a company namely, TNE AAC PRIVATE LIMITED held by the Corporate Person/ Applicant as investment.
- 6.13 The Liquidator has made a public advertisement for the sale of unquoted shares of a company namely, TNE AAC PRIVATE LIMITED held by the Applicant as investment in the newspaper namely, "The North East Times" on 01.02.2022.
- 6.14 The Liquidator pursuant to the public announcement on 01.02.2022 for sale of assets of the Corporate Person/Applicant received the expression of interest from the one of the prospective buyers on 03.02.2022 at the agreed reserve price of Rs. 5,39,46,453.00 as mentioned in the newspaper advertisement and further he has deposited the Earnest Money amount of Rs. 26,97,323 into the bank account of Applicant/Corporate Person, on 07.02.2022 via cheques. Since there is only one prospective buyer who has submitted EOI and participated in the bidding process hence, the Corporate Debtor sold the entire shares to him and accordingly deposited the balance amount to Corporate Debtor account via Cheque dated 22.02.2022.

- 6.15 The Liquidator has submitted a list of stakeholders 17.02.2022 to IBBI based on details in the books of accounts and other records of the company.
- 6.16 The Liquidator in pursuance to the Regulations 9 of the VLP Regulations, has prepared and submitted the Preliminary Report to the Corporate Person on 17.02.2022.
- 6.17 As per Regulation 38(2) of the VLP Regulations the Liquidator has prepared the final report and placed it before the contributories in the contributory meeting held on 5<sup>th</sup> March, 2022. The same is approved by the Contributories unanimously in the meeting. Thereafter, Liquidator has submitted the Final Report, to Insolvency and Bankruptcy Board of India (IBBI) & ROC through e-mail dated 08.03.2022 and through registered post dated 07.02.2022 stating that the liquidation process has been conducted, investment in the shares of TNE AAC PRIVATE LIMITED disposed of and the proceeds thereof has been distributed among the shareholders of the Applicant. All the debts of the Company have been discharged to the satisfaction of the creditors and no litigation is pending against the Corporate Person. The said Final Report also filed with Registrar of Companies in e-Form GNL-2 vide SRN T84689520 dated 07.03.2022.
- 6.18 After the payment of all the dues and liquidation expenses, the remaining bank balance of the Company has been distributed amongst the contributories of the Corporate Person.
- 6.19 After distribution of proceeds and payment of liquidation expenses all the bank accounts of the applicant maintained with State Bank of India, West Guwahati Branch, Guwahati-Assam has been closed by the Liquidator and necessary bank closure certificates have been obtained.
- 6.20 The Audited Financial Account liquidation commencement date till 03.03.2022 states that the proper books of accounts as per law have been maintained & the company did not have any liability for which there were any foreseeable material losses.

7. In compliance of the order dated 13.05.2022 this bench, ROC, NER, Guwahati, submits that:

7.1 As per the MCA master data the company namely NEFA Road Carrier Private Limited (CIN: U60230AS2011PTC010764), was incorporated under the Companies Act, 1956 on 08.11.2011 and its registered office is at Shivam Complex Bharalumukh, A T Road, Guwahati — 781009, Assam. The company has filed its financial statements up to 31.03.2021.

7.2 The Authorized Share Capital of the Company is Rs. 10,25,00,000 (Rupees Ten Crore Twenty-Five Lakhs only) divided into 1,02,50,000 equity shares of Rs. 10 each and paid up share capital of Rs. 10,01,00,000 (Rupees Ten Crore One Lakh only) divided into 1,00,10,000 equity shares of Rs. 10 each.

7.3 The application for dissolution of the company (under voluntary liquidation) is made through the Liquidator Mr. Amit Pareek, duly appointed by the Company in its Extra- Ordinary General meeting (“EOGM”) held on 17.01.2022.

7.4 On receiving application from the liquidator, a notice dated 20.04.2022 was issued by the office of ROC Guwahati to the Company (under voluntary liquidation) for furnishing documents and clarification. The Liquidator has submitted reply along with documents on 11.05.2022 as mentioned below:

- i. Shares transferred along with photocopy of share certificates, Minutes of Board/Share Transfer Committee Meeting
- ii. Minutes of Board and Shareholders meeting from 01.04.2018 onwards: However, on examination it is observed that the following minutes of Board meetings and General Meeting have not been submitted:
  - a) Minutes of Board Meeting held on 01.09.2021, in which the board of director has approved audited Financial Statement for the FY 2020-21.

- b) Minutes of Board Meeting held on 13.12.2021, in which the board of director has approved the Balance sheet and Profit and Loss Account as or 30.11.2021.
- c) Minutes of Board Meeting held on 03.03.2022, in which the board of director has approved the Balance sheet and Profit and Loss Account as on 03.03.2022.
- d) Minutes of Annual General Meeting held on 12.11.2021, in which the shareholders have adopted the audited Balance sheet and Profit and Loss Account for the FY 2020- 21

As per minutes of Board Meeting held on 11.03.2020 & 13.03.2020 the board of director have not approved for making investment of Rs 4,90,00,000/- & Rs. 65,00,000/- respectively in Redeemable Non-Convertible Preference Shares of TNE AAC Private Limited.

- iii. Registrar of Members, Investment Register and other Statutory Registers for the last three years for 01.04.2018 onwards. On examination it is observed that the entries made in these registers have not been authenticated by any directors or any other person as authorized by the board and thus, it appears that the company might not have maintained the other Statutory registers in the prescribed form nor complied the Companies Act, 2013 and rules framed thereunder while maintaining the same.
- iv. No Inquiry, Inspection or Investigation is pending against the Company as on date.
- v. This office has filed case bearing No. 445(s) of 2017 against the company and its directors for violation of Section 203 of the Companies Act, 2013. On the basis of Compounding application filed by the Company, the Regional Director has passed compounding order by imposing Compounding fee of

Rs. 1,70,000.00. This office has issued instruction to the advocate bringing to the notice of the court about such order. Presently the case no. 445(s) of 2017 is pending before the Chief Judicial Magistrate, Shillong. Till disposal of such case, the subject company may not be dissolved.

8. In compliance to the order dated 17.06.2022 of this tribunal, Mr. Amit Pareek, appointed as the Voluntary Liquidator has submitted that:

8.1 He was appointed as the Voluntary Liquidator of the Corporate Person i.e., Nefa Road Carrier Private Limited vide special resolution dated 17.01.2022.

8.2 The Hon'ble National Company Law Tribunal, Guwahati Bench vide its order dated 17.06.2022 pleased to direct the Applicant liquidator to place on record the amount paid by the Corporate Person i.e., Nefa Road Carrier Private Limited as Compounding Fee in compliance of the Hon'ble Regional Director (NER), Guwahati in CP No. 10 (441)/S.203/2019 along with the status of case and also directed the Applicant to once again send the copy of petition to the Income Tax Department.

8.3 The Registrar of Companies (NER) has issued show cause notice dated 23.09.2016 to the Company i.e., Nefa Road Carrier Private Limited and its directors for the non-compliance of section 203(1) read with Rule 8/8A of Companies (Appointment & Remuneration and Managerial Personnel) Rules, 2014, and subsequently launched the prosecution before the Court of Judicial Magistrate First Class, Shillong vide CR Case No. 445(S)/2017.

8.4 In pursuant to the aforesaid notice, the Company has appointed the whole time Company Secretary in the Board Meeting held on 01.04.2019 and intimated to ROC (NER) by filing Form DIR-12 vide SRN No. H56380579 dated 24.05.2019 and thereafter filed an Application No. CP No. 10(441)/S. 203/2019 under section 441 of the Companies Act, 2013 for compounding of offence under section 203 (1) of the

Companies Act, 2013 r/w Rule 8/8A of Companies (Appointment & Remuneration and Managerial Personnel) Rule, 2014, before the Regional Director (NER), Guwahati.

8.5 The aforesaid Application CP No. 10(441)/S. 203/2019 was disposed of by the Ld. Regional Director

8.6 vide order dated 17-06-2019 & Order No RD/(NER)/S441/2019/51, wherein the Ld. Regional Director (NER) compounded the offence committed by the Applicant u/s 203(1) of the Companies Act 2013, and directed the ROC(NER) to take necessary actions u/s 441(3)(d) of the Companies Act, 2013 within seven days from the receipt of this order copy.

8.7 The certified copy of the aforesaid Order dated 17-06- 2019 is duly filed by the company in E-form INC-28 on 18-07- 2019 vide SRN H77862340 along with the proof of payment of challan of compounding fee as imposed on the Corporate Person and its Directors & the payment of such is acknowledged by the Regional Director vide Para No 7 of the Order dated 17-09-2019 filed before the ROC (NER) Guwahati and the same is approved.

8.8 Further in compliance Hon'ble Bench Order dated 17-06- 2022, Applicant Liquidator has again sent the copy of the Petition to the Income Tax through registered post having consignment No. ES938468340IN on 27-06-2022.

9. The matter was heard on 01.04.2022, 13.05.2022, 17.06.2022, 28.07.2022, 05.08.2022, 28.08.2022 and 01.09.2022. The case no. 445(s) of 2017 pending before the Chief Judicial Magistrate, Shillong has been withdrawn by the ROC, which was confirmed by the representative of ROC during the hearing of the matter on 25.08.2022. When the matter was last heard on 01.09.2022, the Learned Counsel of the Applicant reiterated that the case filed before the CJM, Shillong has been withdrawn by the ROC and that there are no dues outstanding in case of NEFA Road Carrier Pvt. Ltd. as mentioned in the email received from the Income Tax Department.

## **ORDER**

10. Heard both the sides and perused the documents submitted and submissions made. It is observed that:

10.1 The Applicant Company is having no creditors, i.e. either secured creditors or unsecured creditors. The Company has duly passed necessary Special Resolution in its Extra-Ordinary General Meeting on 17.01.2022 by confirming the decision of its Board of Directors by proposing its Voluntary Liquidation. Further, in the Extra-Ordinary General Meeting a Resolution was passed to appoint a Liquidator for such purposes. Thus, it appointed Mr. Amit Pareek, the Insolvency Professional as Liquidator.

10.2 The Liquidator has filed copies of paper publication and also copy of public announcements. The Liquidator has duly complied with by taking necessary steps of liquidation process.

10.3 The liquidator has submitted the Final Report, to Insolvency and Bankruptcy Board of India (IBBI) & ROC through e-mail dated 08.03.2022 and through registered post dated 07.02.2022 stating that the liquidation process has been conducted, investment in the shares of TNE AAC PRIVATE LIMITED disposed of and the proceeds thereof has been distributed among the shareholders of the Applicant. All the debts of the Company have been discharged to the satisfaction of the creditors and no litigation is pending against the Corporate Person. The said Final Report also filed with Registrar of Companies in e-Form GNL-2 vide SRN T84689520 dated 07.03.2022.

10.4 The Liquidator also obtained necessary bank account closer certificate, by closing all the bank accounts of the corporate person maintained with the State Bank of India, West Guwahati Branch, Guwahati-Assam, after distribution of entire proceed & payment of liquidation expenses.

10.5 The case no. 445(s) of 2017 pending before the Chief Judicial Magistrate, Shillong has been withdrawn by the ROC. Hence, the

company does not have any pending litigations which would impact its financial position, proper books of accounts as per law have been maintained, and the company did not have any liability for which there were any foreseeable material losses.

10.6 The Company is not involved in any kind of business activities, wherein the public interest at large is involved or it is going to be affected adversely in case such dissolution of the Company is ordered.

11. Considering the above facts, documents submitted, submissions made, we are of the considered view that the present petition should be allowed. Consequently, this Adjudicating Authority in exercise of power conferred under Section 59 (8) of the Insolvency and Bankruptcy Code 2016, the Applicant Company i.e., "M/s. NEFA Road Carrier Pvt. Ltd." is ordered to be dissolved with effect from the date of this Order i.e. 16.09.2022.

12. The Liquidator is directed to communicate a copy of this order to the respondent i.e. Registrar of Companies, NER, Guwahati, including Insolvency and Bankruptcy Board of India (IBBI) and other concerned statutory authorities, wherein the Applicant Company was registered and its registered office was situated. Such communication should be made by the Liquidator within fourteen (14) days from the date of receipt of authentic copy of this order.

13. The Registry is directed to communicate a copy of this order to the Registrar of Companies, NER, Guwahati, and Insolvency and Bankruptcy Board of India (IBBI).

14. Accordingly, the instant Company Petition CP. (IB) No. 3/GB/2022 is allowed and the Applicant Company i.e., "M/s. NEFA Road Carrier Pvt. Ltd." is ordered to be dissolved with effect from the date of this Order i.e. 16.09.2022.

**Sd/-**

**(Prasanta Kumar Mohanty)**  
**Member (Technical)**  
**& Adjudicating Authority**

**Sd/-**

**(Deep Chandra Joshi)**  
**Member (Judicial)**  
**& Adjudicating Authority**