



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI COURT – VI

ITEM NO. 4
CP (IB) 91/ND/2023

IN THE MATTER OF:

M/s. Big Loyalty India Pvt. Ltd

... Applicant

Order under Section 59 of Insolvency and Bankruptcy Code, 2016

Order delivered on 13.10.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS,
HON'BLE MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR,
HON'BLE MEMBER (TECHNICAL)

ORDER

Order pronounced in open Court vide separate sheets.

CP(IB) 91/ND/2023 stands allowed.

SD/-

(Rahul Bhatnagar)
Member Technical

SD/-

(Bachu Venkat Balaram Das)
Member Judicial



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

CP (IB)-91/ND/2023

IN THE MATTER OF:

M/s. Big Loyalty India Pvt. Ltd.

Through Mr. Shashikant Shravan Dhamne, Liquidator

Flat No.c-120, Fifth Floor,

National Apartments, plot no-04,

Sector-3, Dwarka, New Delhi - 110075

... Applicant/ Petitioner Company

ORDER UNDER SECTION: 59(7) of IBC, 2016

CORAM:

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER
(JUDICIAL)**

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Liquidator: Mr. Iswar Mohapatra, Adv



ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

Date: 13.10.2023

1. This application is filed by the Liquidator under section 59 of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 seeking dissolution of M/s Big Loyalty India Pvt. Ltd (hereinafter referred to as the ("Company")).

2. That the aforesaid Company was incorporated on 05.11.2018 under the Companies Act,2013. The Registered office of the Applicant is situated at Flat No. C-120, Fifth Floor, National Apartments, plot No-04, Sector3, Dwarka, New Delhi, South West Delhi, Delhi -110075, India, which lies within the territorial jurisdiction of this Bench.

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

- i. The Corporate Person was a distributor of Big Points in India under Air Asia's Big Loyalty programme. The Corporate Person has neither borrowed any money from anybody nor has committed any default and hence it intended to liquidate itself voluntarily.
- ii. The details of the directors of the Applicant Company are as follows:



Sr. No	Name of the Director	Designation	DIN
1	Mr. Rahul Agarwal	Director	07467832
2	Mr. Devender Bhola	Director	08766170

iii. List of shareholders of the company are as follows:

Sr. No	Name of the Shareholder	No. of shares held	Percentage of holding
1	BigLife Sdn. Bhd	17,13,499	99.99%
2	Mr. Manjul Taneja	01	0.01%
Total		17,13,500	100

iv. That Board of Director at Board meeting dated 24th February, 2022 decided to liquidate the Company voluntarily under section 59 of the IBC, 2016. As required



under the provisions of the Section 59 of the Code, all the three Directors of the Company, have made a declaration of solvency which has been placed on record with the application.

- v. To give effect to the intendment of the corporate person both of its Directors furnished a Declaration of Solvency verified by an affidavit dated 11th March 2022 & 14th March 2022, stating that:
 - a. They have made full enquiry into the affairs of the Corporate Person, and they have formed an opinion that the Corporate Person has no debt as on date of signing of the Declaration; and
 - b. The Corporate Person is not being liquidated to defraud any person.
4. That the declaration given by Board of Directors of the corporate Person is accompanied with the audited financial statements of the corporate Person for the previous two financial years.
5. Thereafter, within four weeks of the declaration of solvency given by both of the Directors of the Corporate person, an extra-ordinary general meeting of the Corporate Person was held on 21st March, 2022 wherein the members of the Corporate Person have passed a special resolution requiring the Corporate Person to be liquidated voluntarily and



appointing Mr. Shashikant Dhamne, an insolvency professional, to act as the Liquidator.

6. That within seven days of approval by the shareholders of the corporate Person, the corporate person notified the same to the Registrar of companies, Delhi in Form MGT-14 and GNL-2.
7. That within seven days of approval by the shareholders of the corporate Person, the Liquidator notified the same to the Insolvency & Bankruptcy Board of India, New Delhi.
8. That the Liquidator has also notified the commencement of voluntary liquidation along with public Announcement in pursuance thereof to the Income Tax department in terms of Section 178 of the Income Tax Act, 1961.
9. The Liquidator has also notified the commencement of voluntary liquidation to Goods and Service Tax office, Import Export office and Shop Act office.
10. That the Liquidator within five days of his appointment made a public announcement in Form A calling upon the stakeholders to submit their claims as on the voluntary liquidation commencement date within thirty days from the liquidation commencement date. The Public Announcement was made on 24th March 2022 in Business standard, English and Business Standard, Hindi. The said Public Announcement



was also published on the website of the Insolvency & Bankruptcy Board of India.

11. That Public Announcement was also served on the Income Tax Department by the Liquidator in terms of Section 17g of the Income Tax Act, 1961, inviting their claims, if any, as on the liquidation commencement date
12. That a reminder letter was sent to Income Tax Department asking for submission of the claims, if any, and requesting for the no dues certificate from the department.
13. Since, the company had fairly discontinued its business operations prior to the closure decision, no claims were received since liquidation commencement date, no debts were required to be discharged. Accordingly, the List of Stakeholders was prepared and duly submitted to IBBI.
14. As on liquidation commencement date, a corporate person had two current bank accounts with Citibank, Delhi bearing number 0522339008 (INR account) and 0522339016 (USD account) respectively. Post commencement of the voluntary liquidation process, the bank account bearing account number 0522339016 (i.e. USD account) was closed w.e.f. 06th July 2022 and the INR account bearing account number 0522339008 was converted into a liquidation account and the name of the said bank account was duly changed to "Big Loyalty India Private Limited (In Voluntary Liquidation)" and



the same account has been used for the purpose and in accordance with the section 53(l) of the Code read with regulation 35(3) of the Regulations.

15. On liquidation commencement date, there were no assets (except bank balance) in the Company. Therefore, as there were no assets to be realized, no registered valuer was appointed to value the assets of the Company. On completion of the Liquidation process, the Liquidator made an application to duly close the liquidation account and Bank has issued the closure certificate of liquidation account stating that bank account has been closed with effect from 30th November, 2022. That there was no balance available in the Liquidation Account post incurring the Liquidation costs, so nothing is being distributed to the shareholders of the company and hence, the Bank account is being duly closed.

16. That the Final Report was sent to the Registrar of companies, Chennai vide Form GNL-2 and to the Insolvency & Bankruptcy Board of India, New Delhi.

17. That on completion of the liquidation, Liquidator has duly prepared Compliance certificate in prescribed Form H.

18. That the Company has no creditor and hence NOC from creditor is not required & the company has also not given any Corporate Guarantee to any person with respect to any loan



transaction & Affidavit to this effect is annexed with the application.

19. That since the affairs of the Corporate Person have been completely wound up, and its assets completely liquidated the Liquidator has presented this Petition to this Tribunal for dissolution of the Corporate Person in terms of section 59(7) of the Insolvency & Bankruptcy Code, 2016

20. We gone through the application filed by the applicant/ Liquidator seeking dissolution in terms of section 59(7) of the Code.

21. This Tribunal directed the Petitioner to issue a notice to the RoC. Pursuant to the notice issued by this Tribunal, the RoC has filed its report dated 12.04.2023 and made some observations. The observations of RoC and the Reply of the petitioner company are as under: -

Serial No	Observations in the RoC	Response of the Applicant Company
1.	<i>That as per available records, last Balance Sheet and Annual Return were filed by the Company for the financial year 2020-21 in e-form AOC-4 & MGT-7 vide SRN T68895515 &</i>	The voluntary liquidation of the corporate person commenced w.e.f. 21.03.2022 in terms of the provisions of the section 59 of the Insolvency & Bankruptcy Code, 2016 ("the Code") and Insolvency & Bankruptcy Board of India



	<p><i>T70087093 dated 29.12.2021 & 04.01.2021. Further, the Company has failed to file financial statement for the period from 01.04.2021 to 20.03.2022 in compliance with section 137(1) of the Companies Act, 2013.</i></p>	<p>(Voluntary Liquidation Process) Regulations, 2017. Once the liquidation is commenced the liquidator is seized of the entire process and he has mandate to carry on the voluntary liquidation process in accordance with the provisions of the Code read with Regulations made thereunder and not otherwise. Since the voluntary liquidation is commenced w.e.f. 21.03.2022 there, is no occasion or requirement to the liquidator to prepare the financial statements and annual return of the corporate person pertaining to the financial year 2021-22 under the Companies Act, 2013. This is settled position and in support of that the liquidator relies on judgement dated 08.02.2021 of Hon'ble National Company Law Appellate Tribunal, New Delhi in the matter of <i>Om Prakash Agarwal, Liquidator-S. Kumars Nationwide Limited (Company Appeal (AT)(Insolvency) No. 624 of 2020</i> wherein the Hon'ble Appellate Tribunal held to the effect that the provision of the Code and Regulations does not assign a duty on the liquidator to prepare financial statements. Hence it is submitted that the liquidator has no mandate</p>
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		<p>to prepare financial statement in respect of the corporate person under the provisions of the Companies Act, 2013.</p> <p>However, without prejudice to foregoing, in the larger interest the liquidator has prepared the unaudited accounts made up to liquidation commencement date i.e. 21.03.2022 and filed the same with the Hon'ble RoC in Form GNL-2 vide SRN AA2325281 on 06th May 2023. The copy of Form GNL-2 is annexed with the reply</p>
2.	<i>The Company has failed to submit a copy of declaration of solvency before Registrar of Companies in Form GNL-2</i>	<p>It is submitted that intimation of commencement of voluntary liquidation was filed in Form GNL-2 vide SRN T90810730 on 25th March 2022 which was approved by the Hon'ble ROC on 30th March 2022. The copy of Form GNL-2 is annexed with the reply. Further, the declaration of solvency has submitted in the captioned petition for dissolution and the same is filed in Form GNL-2 vide SRN AA2325281 on 06th May 2023 with the Hon'ble RoC. The copy of Form GNL-2 is</p>



		annexed with the reply
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22. Apart from the above observations, it is submitted by the RoC that as per their records, no inquiry / inspection / complaint /legal action has been shown pending against the subject Company.

23. We have gone through the observations made by the RoC and the Reply filed by the petitioner company. We are satisfied with the response given by the petitioner company w.r.t observation made by the ROC

24. That as per provisions of Section 178 of the Income Tax Act, 1961, the Liquidator intimated the commencement of liquidation and appointment of liquidator to the Income Tax Authority and for seeking its No-Objection Certificate. The Income Tax Department has not filed any reply. The IBBI vide its Circular No. IBBI/LIQ/45/2021 dated 15.11.2021, clarified that the provisions of the Code read with the IBBI Regulations, an Insolvency Professional handling voluntary liquidation process is not required to seek any no objection certificate from the Income Tax Department for the dues of the Company.

25. The Liquidation Account maintained at CITI Bank was closed and letter dated 30.11.2022 received from CITI Bank confirming the closure of the Bank Account has also been placed on record by the applicant.



26. 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, we hereby allow the Prayer of Liquidator to dissolve the company U/S 59(7) of the Code and the said company is hereby dissolved with effect from the date of the present order. Under Regulation 41 IBBI (Voluntary Liquidation Process), the Liquidator is directed to preserve a physical or electronic copy of the reports, registers, books of account including Bank's Letter evidencing closure of the Bank Account maintained at CITI Bank and other documents referred to in Regulation 8 and 10 for at least eight years for electronic copy and at least three years for physical copy after the dissolution of the company at a secure place.

27. A copy of this order be filed with the RoC within the statutory period as per the applicable provisions.

28. File be consigned to the Record Room.

SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)