

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1



ITEM No.301
C.P.(IB)/5(AHM)2023

Proceedings under Section 59(7) IBC

IN THE MATTER OF:

Devesh A Pathak Liquidator of Fine Ceracote Surfaces Pvt LtdApplicant

.....Respondent

Order delivered on: 09/10/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)



**THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, AHMEDABAD**

CP(IB)/5(AHM)/2023

[Application under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 read with the Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 for dissolution of the Corporate Person]

In the matter of **Fine Ceracote Surfaces Private Limited**

Devesh A. Pathak

Liquidator of **Fine Ceracote Surfaces Private Limited**

(Under Voluntary Liquidation)

TF 20, Keshavkunj, PramanandKavi Pole,

Vachali Pole, Vadodara, Wadi,

Gujarat-390017

... Liquidator / Applicant

Order Pronounced on 09.10.2023

CORAM:

SHAMMI KHAN, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)

Appearance:

For Applicant : Devesh A. Pathak, PCS



ORDER

1. This is a Company Petition filed by the Liquidator **Mr. Devesh A. Pathak** in relation to the voluntary liquidation of **Fine Ceracote Surfaces Private Limited** with CIN:U26914GJ1989PTC012258, under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC, 2016”), seeking dissolution of the Company.

2. The Applicant Company was incorporated on 19.05.1989 under the provisions of the Companies Act, 1956. The main object of the Company is to carry on the business of manufactures, producers, traders, exporters, importers, factors, agents, packers, re-packers, consigners, consignees, stockists and distributors of all classes, kinds, types and nature of ceramic coating materials, additives, colours, binding agents and surface polishing materials. The details of the main objects are set out in the Memorandum of Association which is annexed along with the petition.

3. It is stated in the Petition that the Company is not carrying on any business since preceding five years and not earning any profits. It is also stated that due to adverse market conditions, the Company was not in a position to carry on the activities. The company does not have any assets except cash.



Hence, a Board meeting was held on 19.02.2021 to consider winding up and voluntary liquidation of the Company as per the provisions contained under Section 59 of the Insolvency and Bankruptcy Code, 2016, wherein a Resolution was passed to conduct the Extraordinary General Body Meeting on 01.03.2021.

4. In the Extraordinary General Meeting of the Shareholders of the Company which took place on 01.03.2021 it was resolved by special resolution to appoint the Applicant herein to act as a liquidator for conducting voluntary liquidation process in relation to the Company under Section 59 of IBC, 2016.

5. It was submitted that the Applicant herein has conducted the Voluntary Liquidation process in respect of the Company in Liquidation in accordance with the IBBI (Voluntary Liquidation Process) Regulations, 2017. The details of the relevant compliances as mandated under Section 59 of the IBC, 2016 read with the IBBI (Voluntary Liquidation Process) Regulations, 2017 are listed hereunder:-

| S. No | COMPLIANCE | AVERMENTS | PAGE NO. IN THE APPLICATION |
|--------------|-------------------|-----------------------------------------------------------------|------------------------------------|
| 1 | Sec. 59 (3) | Audited Financial statements for the years 2018-19 and 2019-20. | 77-107 |
| 2 | Sec. 59 (3) (c) | EGM dated 01.03.2021 | 116 - 117 |



| | | | |
|----|----------------------------------|---------------------------------------------------------------------------------------------|-----------|
| | and Reg. 3 (1) (c) | approving the voluntary liquidation | |
| 3 | Section 59 (4) and Reg. 3 (2) | Declaration of solvency filed with ROC in Form GNL-2 | 59 - 76 |
| 4 | Section 59 (4) and Reg. 3 | Special Resolution for voluntary liquidation passed by shareholders in EGM vide Form MGT-14 | 110 - 117 |
| 5 | Regulation 14 | Form A Public Announcement | 142-144 |
| 6 | Section 178 of IT Act, 1961 | Intimation to the IT Department and request for NOC | 146 -148 |
| 7 | Reg. 9 | Preliminary report dated 14.04.2021 | 150 - 154 |
| 8 | Reg. 34 | Closure of Liquidation Bank Account of Indian Overseas Bank dated 13.09.2022 | 169 |
| 9 | Reg.38 | Filing Final report dated 31.10.2022 | 171 - 179 |
| 10 | Reg. 38 | Final report in GNL-2 filed with the ROC | 187 -191 |
| 11 | Reg. 38 | Submission of Final Report to IBBI | 192 |
| 12 | Reg. 38 | Form-H – Compliance certificate | 180-185 |

6. Notice of this petition was sent to the Regional director, Registrar of Companies and Income Tax Department. The Income Tax Department has filed its report/representation dated 22.02.2023, in respect of the Company, stating that “there is a tax liability/outstanding demand of Rs. 10789/- for



F.Y. 2008-09 and 2010-11 (details enclosed). Further, no other proceedings are pending in this case.” No reply/report from Regional Director and RoC received.

7. In response to the report filed by the Income Tax Department applicant filed an ‘Affidavit of payment of outstanding income tax dues’ dated 09.05.2023 wherein it is stated that no notice of outstanding demand is served on the company, further on visiting the website it is found that pending demand for the year 2008-09 and 2010-11 was Rs. 40 and Rs. 210 respectively. The said demand has been fully paid by the applicant; proof of payment is annexed with this affidavit.

8. On perusal of the petition it was observed that in the Preliminary Report it is stated that the liquidation of the Company is estimated to be over by 01.03.2022. Whereas the liquidation commenced on 01.03.2021 and the petition filed before this Tribunal on 30.12.2022, which is contrary to the preliminary report. Hence, this Adjudicating Authority vide order dated 28.08.2023 directed liquidator to place on record the resolution qua extension of liquidation period.

9. In compliance of the order dated 28.08.2023 Applicant convened the Extra Ordinary General Meeting on 12.09.2023



wherein resolution in connection with extension of liquidation period was passed. Applicant placed on record the affidavit dated 13.09.2023, the minutes of EGM for extension of liquidation period.

10. It was submitted by the Applicant that no claim has been received during the process of liquidation. Further, it was submitted that after making various payments including liquidation costs as per the provisions of Section 53(1) of IBC, 2016, the Liquidator has distributed the funds among the shareholders as detailed below:

| Receipts | Amount (Rs.) | Payments | Amount (Rs.) | Amount (Rs.) |
|--------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------|---------------------|---------------------|
| Amount available for disbursement in the bank account at the time of commencement of Liquidation | 51,71,183 | Liquidation Costs: | | 2,90,421 |
| | | 1. Advertisement Expense | 11,312 | |
| Income Tax Refund of FY 2019-20 | 68,960 | 2. Payment of Fees for Audit | 5,900 | |
| | | 3. Bank Charges | 3,878 | |
| Account opening cash deposited by liquidator | 2,500 | 4. Fees paid for Annual Status Report Audit | 5,310 | |
| | | 5. Out of Pocket Exp. | 2,432 | |
| Income Tax Refund of FY 2020-21 | 64,120 | 6. Liquidator's Remuneration | 1,77,000 | |
| | | 7. Professional Fees for Statutory | 29,500 | |



| | | | | |
|--------------|------------------|--------------------------------------------------------|--------|------------------|
| | | Audit and Income Tax Compliance (FY 2021-22) | | |
| | | 8. Fees for Liquidation Audit | 5,310 | |
| | | 9. Dissolution Expenditure | 49,779 | |
| | | Re-imburement of initial opening balance to Liquidator | | 2,500 |
| | | Payment to Equity Shareholders: (as per Annexure-A) | | 50,13,842 |
| | | Paid up share Capital @ 100 per share | | |
| | | | | |
| Total | 53,06,763 | Total | | 53,06,763 |

11. Thus, on examining the submissions made by the Applicant and after perusing the documents annexed to the Petition it appears that the affairs of the Company have been completely wound up and the assets of the Applicant Company have been completely liquidated and as such the Applicant Company deserves to be dissolved. Accordingly, in exercise of the powers conferred under Section 59(8) of IBC, 2016. We hereby order the dissolution of **Fine Ceracote Surfaces Private Limited** and the Applicant Company shall stand dissolved from the date of this order.



12. The *Registry* and the Liquidator are directed to serve a copy of this order upon the Registrar of Companies, Gujarat, Income Tax Department and also to IBBI, within 14 days from the date of this Order for information and necessary action.

13. The Liquidator shall preserve a physical or an electronic copy of the reports, registers and books of account referred to in Regulations 8 and 10 of IBBI Regulations for at least eight years after the dissolution of the Corporate Person, either with himself or with an information utility.

14. Accordingly, the Company Petition stands **allowed** and disposed of.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)

Paresh Vedani