

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2



ITEM No303
CP(IB)/146(AHM)2022

Order under Section 59 IBC

IN THE MATTER OF:

Pinakin Shah Liquidator Oxygen Financial Equities & Portfolio**Applicant**
Management Pvt Ltd

.....**Respondent**

Order delivered on 09/08/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Ajai Das Mehrotra, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet

-Sd-

AJAI DAS MEHROTRA
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)



**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
(COURT NO. II)**

CP (IB)/146/2022

[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]

In the Matter of:

**Mr. Pinakin Shah,
Liquidator of Oxyzen Financial
Equities & Portfolio Management
Pvt. Ltd.**

**...Applicant/
Liquidator**

AND

In the Matter of:

**Oxyzen Financial Equities and Portfolio
Management Private Limited
(CIN- U67190GJ2007PTC052024)
Office of Liquidator:
A/201 Siddhi Vinayak Towers,
Next to Kataria House, off. S.G. Highway,
Makarba, Ahmedabad-380051, Gujarat.**

...Corporate Person

Order Pronounced On: 09.08.2023



Coram:
SHAMMI KHAN,
HON'BLE MEMBER (JUDICIAL)

AJAI DAS MEHROTRA,
HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Mr. Ishan Shah, Advocate
For the Income Tax : Ms. Pankti Shah Advocate for Ms. Maithili Mehta
Department Advocate

ORDER

1. The instant Application has been filed by M/s. Oxyzen Financial Equities and Portfolio Management Private Limited ('Company') through the liquidator for dissolution of the Corporate Person through voluntary liquidation under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 ('Code') read with regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 ('IBBI Regulations').
2. The Company was incorporated as a Private Limited Company under the provisions of the Companies Act, 1956/2013, on 22.10.2007, bearing CIN-U67190GJ2007PTC52024 and having registered office at T-36, Shantinagar Society, Nr. Aroma School, Usmanpura. The Authorized share capital of the Company is Rs. 50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each



and the issued, subscribed and paid-up share capital of the Company is Rs. 20,00,000/- divided into 2,00,000 equity shares of Rs. 10/- each.

3. The main objects of the Company were to carry on the business of marketing, sales and distribution of financial products and services namely fund, life insurance, general insurance, structured products, postal schemes, IPO, equity trading, bonds, real estate funds, commodities funds, gold investments, art funds, small giving schemes, GOI bonds, etc research and analysis of financial markets, management services, loan against share, project financing. To carry on and undertake the business of sub broking and provide broking services to local retail customers, non- resident Indians, Indian Corporates, institutional clients and any other customers in the area of securities, debt, index derivatives either by directly taking membership of recognized stock exchanges in India/abroad or indirectly and to deal in Government securities, reselling of third party mutual fund schemes and to act as underwriters, sub-underwriters to any issue of shares. A copy of the Memorandum of Association and Article of Association of the Company and a copy of Master Data, as available from the website of the Ministry of Corporate Affairs, is annexed with the application.



4. The averments made by applicant and presented/argued by learned counsel are summarized hereunder:-

(a) The Board of Directors of the company were of an opinion to close down the company by way of voluntary liquidation, due to non-availability of business prospects and non- viability of the company. Accordingly, Board of Directors of the Company in their meeting held on 16.09.2020 proposed to liquidate the company.

(b) Pursuant to the meeting of BODs held on 16.09.2020, all directors of the company have submitted the Declaration of Solvency Affidavit dated 16.09.2020 wherein it is stated that they have made a full inquiry into the affairs of the Company and formed an opinion that the Company has no debts which cannot be paid off and the statement of assets and liabilities is annexed to the declaration of solvency as at 31st August 2020 being the latest practicable date before the making of this declaration. Further, it is stated that the company is not being liquidated to defraud any person. Copies of the Declaration of Solvency Affidavit and Audited financial statements of the Company for the year 2018-19 & 2019-20 are annexed with the application.

(c) The company has also filed the GNL-2 with the Registrar of Companies vide SRN No. R62947361 dated 28.09.2020 for the purpose of filing declaration of solvency under Section 59(3) of Insolvency and Bankruptcy



Code, 2016 for voluntary winding up. A copy of the said document is also annexed with the application.

(e) Since there were no creditors in the Company under Liquidation, the requirement of consent from them was not applicable.

(f) The Board of Directors of Corporate person in Extra Ordinary General Meeting ('EOGM') held on 30.09.2020, passed a special resolution to voluntarily liquidate the Company. Further, it was resolved to appoint Mr. Pinakin Shah, Insolvency Professional with Registration No. IBBI/IPA-002/IP-N00106/2017-18/10248 to act as the Liquidator. A copy of special resolution passed at the EOGM dated 30.09.2020 is annexed with the Application & a copy of the consent affidavit of liquidator is also annexed with application.

(g) The applicant intimated ROC about passing of a Special Resolution under sub-section (3) of Section 59 of the IBC to liquidate the Corporate Person by filing Form MGT-14 (SRN No. R65517591) dated 05.10.2020.

(h) The liquidator made a public announcement of the commencement of liquidation in Form A of Schedule I as per Regulation 14 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 in the English language and Gujarati language in the "Western Times" dated October 07, 2020, inviting claims in respect of the corporate person by various stakeholders from the date of commencement of liquidation, i.e., September 30, 2020. A copy of the newspaper advertisement for the said public announcement



is annexed with the application. Further, the applicant informed IBBI vide e-mail dated 07.10.2020 wherein, it is stated that the members of M/s. Oxyzen Financial Equities and Portfolio Management Pvt. Ltd. has unanimously approved the resolution of voluntary liquidation as provided under Section 59(2) read with Regulation 3 of the IBBI Voluntary Liquidation Rules. The applicant has also sent the intimation of commencement of voluntary liquidation and appointment of liquidator to Income Tax Department on 07.10.2020, copy of the same is annexed with the application.

(i) Pursuant to public announcement dated 07.10.2020, no claims were received either from operational creditor or employees.

(j) The applicant has opened a bank account as required under regulation 34(1) of IBBI Regulations in the name of “Oxyzen Financial Equities And Portfolio Management Private Limited” with ICICI Bank, JMC House, Ahmedabad (Gujarat).

(k) The Liquidator had submitted a Preliminary Report dated 26.10.2020, to the company under liquidation. The relevant part of the said report is reproduced below:-

The estimates of its assets and liabilities as on the liquidation commencement based on the books of the corporate person:

Sr. No.	Assets	Book Value estimated to realize



1	Balance at Bank	35,38,866.26
2	Cash in hand	0
3	Marketable Securities	0
4	Bills Receivable	0
5	Trade Debtors	0
6	Stock-in-trade	0
7	Work in progress	0
8	Freehold Property	0
9	Plant & Machinery	0
10	Furniture, fittings, utensils, etc.	0
11	Patents, Trade Marks, etc.	0
12	Investments other than Marketable Securities	0
13	Other	0
14	Total	35,38,866.26
	Liabilities	35,38,866.26
	Total	35,38,866.26

3) The proposed plan of action for carrying out the liquidation, including the timeline within which he proposes to carry it out and the estimated liquidation costs.

- Timeline- 3 Months
- Estimated cost of Liquidation :



Advertisement under regulation 14 of IBC (Voluntary Liquidation Process) Regulations, 2017 published in Western Times English and Gujarati on 07/10/2020.	Rs.13,104/-
Liquidation fess as resolution passed in general meeting of member on 30 th September, 2020.	Rs.1,10,000/- plus GST plus other out of pocket expenses as actual.

(1) Copy of audited receipts and payments pertaining to liquidation since the liquiation commencement date is enclosed to the application. The liquidator prepared and submitted a final report as required under regulation 38 of the IBBI regulation, 2017 on 09.04.2022, detailing the liquidation process being conducted. The said final report of the Liquidation has been submitted to the Registrar of Companies in form GNL-2 vide SRN T96235007 on 19.04.2022. The final report states that the liquidator has complied Regulation 9 on Reporting, Regulation 10 on registers and books of accounts, Regulation 12 on consultation with shareholders, Regulation 14 on public announcement, Regulation 30 on list of stake holders, and Regulation 35 on distribution. A copy of the final report is annexed with the application.



(m) The liquidator has also filed “FORM-H” under Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulation, 2017. The details of distribution to stakeholders as per Section 52 or 53 of the Code is as follows:-

Sl.No.	Stakeholders under section 52 and 53(1)	Amount claimed	Amount Admitted	Amount Distributed	Amount distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Realization of Security Interest [Sec.52(1)(b)]	-	-	-	-	-
2	Liquidation Cost [Sec.53(1)(a)]	1,68,289/-	1,68,289/-	1,68,289/-	100.00	
3	Workmen's Dues [Sec.53(1)(b)(i)]	-	-	-	-	-
4.	Debts of Secured Creditors [Sec.53(1)(b)(ii)]	-	-	-	-	-
5	Wages and Unpaid Dues to Employees [Sec.53(1)(c)]	-	-	-	-	-



6	Debts of Unsecured Financial Creditors [Sec.53(1)(d)]	-	-	-	-	-
7	Government Dues + Amount Unpaid following Enforcement of Security Interest [Sec.53(1)(e)]	-	-	-	-	-
8	Any remaining Debts and Dues [Ssec.53(1)(f)]	-	-	-	-	-
9	Preference Shareholders [Sec.53(1)(g)]	-	-	-	-	-
10	Equity Shareholders [Sec.53(1)(h)]	20,00,000/-	20,00,000/-	33,70,000/-	100.00	
	Total	21,68,289/-	21,68,289/-	35,38,289/-	100.00	

(n) It is also observed from FORM-H that there are no applications filed/pending in respect of avoidance transactions and that there are no undischarged matters pending before any Court of Tribunal relating to the corporate person.

5. The liquidator filed this application on 16.05.2022 and notice was issued by Adjudicating Authority to the ROC, and Income Tax Department on



22.06.2022. In compliance with said order, the liquidator filed an affidavit of service on 14.07.2022. The Income Tax Department filed their report on 18.07.2022 wherein it is stated that there is no outstanding demand against the corporate person. No reply is received from ROC, though Company Prosecutor and Assistant ROC had attended the hearing on 15.07.2022.

6. This Adjudicating Authority heard the learned counsel for the liquidator and reserved the matter for order on 02.03.2023. However, certain clarifications were sought vide order dated 10.03.2023 and the order was de-reserved. In compliance with the said order, the applicant filed affidavit dated 28.03.2023 on 29.03.2023.
7. During the hearing of the matter held on 14.06.2023, learned counsel for the Income tax department stated that they have no objections to the voluntary liquidation of the corporate person as there is no income tax demand outstanding against the said company.
8. The Liquidator had maintained a current account in the name and style of “OXYZEN FIN EQUITIES & PORTFOLIO MGMT PVT. LTD” in the ICICI Bank, JMC House, Ahmedabad and enclosed copy of the bank statement with the petition. The applicant has also provided copy of bank statement having



NIL balance alongwith closure certificate. As per Regulation 34(1) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 a separate bank account is required to be opened in the name of corporate person followed by the words 'in voluntary liquidation'. However, the applicant has continued the bank account no. 002405013464 with ICICI Bank as liquidation account and the words 'in voluntary liquidation' are not inserted.

9. Heard submissions and perused the documents annexed to the petition. It is seen that assets have been completely liquidated. The affairs of the company have been wound up. This petition is complete u/s 59(7) of the Code.

10. In exercise of the powers conferred under sub-section (8) of Section 59 of the Insolvency and Bankruptcy Code, 2016 the application is allowed with the following directions:
 - i. M/s. Oxyzen Financial Equities and Portfolio Management Private Limited having CIN U67190GJ2007PTC052024 stands dissolved from the date of this Order.
 - ii. The Liquidator is directed to file copy of this order with the concerned Registrar of Companies, Income Tax Department, and IBBI within 14



days from the date of receipt of an authentic copy of this order, for information and necessary action.

- iii. The Liquidator is also directed to file this order with all other Statutory Authorities connected with the affairs of the Company.
 - iv. 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.
11. Copy of the order be served to the respective parties.
12. Application is allowed and stands disposed of.

-Sd-
AJAI DAS MEHROTRA
MEMBER (TECHNICAL)
Mehul Steno/Arati LRA

-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)