IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III

C.P. No. 4283 of 2019

Under Section 59 of Insolvency & Bankruptcy Code, 2016

In the matter of

Newave Energy India Private Limited

.....Petitioner/Corporate Person

Order delivered on: 09.11.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance (through video conferencing):

For the Applicant: CS Bharat R Upadhyay

Per: Shri Chandra Bhan Singh, Member (Technical)

ORDER

1. This is a Company Petition filed by **Newave Energy India Private Limited** to initiate voluntary liquidation proceedings under Section 59 of the Insolvency and Bankruptcy Code, 2016 (**IBC**).

2. The Petitioner Company was incorporated, under the provisions of Companies Act, 1956, on 07.02.2008 having CIN U40108MH2008PTC178597. The Authorized Share Capital of the company is ₹ 1,00,00,000/- divided into 10,00,000 Equity Shares of ₹10/- each. The Issued, Subscribed and Paid-up Share Capital of the Company is ₹93,12,500/- divided into 931250 Equity Shares of ₹10/- each. The Registered Office of the Company is located at 22 A, Shah Industrial Estate Off Veera Desai Road, Andheri (West), Mumbai – 400053.

3. The Company has discontinued its business operations for past few years. Further, the Company seems not to have any plans to revive its business operations due to non-availability of desired business prospects

and long-term financial resources. Accordingly, the management is of the opinion that it is in the interest of all stakeholders to voluntarily liquidate the Company.

4. The Board of Directors of the Company have declared on affidavit dated 02.11.2018 that they have made full inquiry into the affairs of the Company and are of the opinion that the Company has no debts and that it is not being liquidated to defraud any person. The directors have appended to the affidavit above, audited financial statements, unaudited financial statement and record of business operations of the Company of previous financial years. The details above have been filed by the Company with the registrar of Companies in form no. GNL-2 for declaration of solvency on 05.11.2018 vide SRN H26877449.

5. The Members of the Company in Extra- Ordinary General Meeting held on 02.11.2018 passed a Special Resolution to liquidate the Company voluntarily and to appoint CS Bharat Ramakant Upadhyaya, Insolvency Professional, having registration No. IBBI/IPA-002/IP-N00120/2017-18/10289 as liquidator of the Company.

6. The Liquidator made a public announcement of commencement of liquidation in Form A, in Free Press Journal, in English and Navshakti in Marathi on 05.11.2018 calling for the submission of claims by various stakeholders on or before 01.12.2018. The aforesaid public announcement was submitted to Insolvency and Bankruptcy Board of India (IBBI).

7. The Liquidator did not receive any claims from the operational creditors, financial creditors, workman, employees and other stakeholders under the advertisement published in the newspaper.

8. The Petitioner has submitted the resolution for the commencement of liquidation, the appointment of a liquidator and a public announcement made in the newspaper to the Registrar of Companies in Form MGT-14 and Form GNL-2.

9. The Liquidator has submitted its preliminary report to the Company on 13.12.2018. As per the report of the Liquidator, the Company is not doing any business and its book of accounts reflect that the Company have cash in bank worth ₹ 31,44,534 but the Company does not have any fixed assets and long-term liabilities in the form of long-term loans and borrowings. Further, it is stated that its expenses are mainly towards legal and professional charges, auditor`s fee, income tax etc.

10. The statement of payment in liquidation process details the payment made towards legal charges, liquidator`s remuneration, the various costs incurred during the liquidation process, payments to various creditors and Income Tax Liabilities of the Company. Post the payments above, ₹ 26,44,534 is paid to the contributors as repayment of capital to shareholders.

11. The "NOC" dated 29.01.2019 from the Income Tax Authority stating that there are no outstanding arrears against the Company.

12. The Liquidator has intimated the Citibank, the Bank maintaining the account of the Company that the Company is in Liquidation and requested to close the bank account of the company. The said bank account was closed on 13.10.2019 as per the email of the Bank.

13. The Independent Auditor vide its certificate dated 18.07.2018 has audited the balance sheet as at 31.03.2018, statement of profit and loss, statement of cash flows for the year ended and notes to the financial statements including a summary of significant accounting policies and

other explanatory information. In its opinion, the said financial statements give the information required by the Companies Act in the manner so required and give a true and fair view in conformity with the Accounting Standards specified under Section 133 of Companies Act, 2013. Further, there are no long-term contracts with the Company for which there may be any foreseeable losses and there is no amount which is to be transferred to the Investor Education and Protection Fund of the Company.

14. The Final Report of the Liquidator dated 25.04.2019 states that the company did not have any assets which requires to be disposed during liquidation period. The Company had only cash balance in its bank as its assets. It is stated that all the debts of the Company have been discharged to the satisfaction of the creditors and that no litigation is pending against the Company. The said Final Report of the Liquidator is submitted with the Registrar of Companies vide Form GNL-2 dated 25.04.2019.

15. The Liquidator has filed this petition before this Tribunal under section 59(7) of IBC for Dissolution of the Company.

16. On examining the submission made by the counsel appearing for the Petitioner and the documents annexed to the Petition, it appears that the affairs of the company have been completely wound up, and its assets have been completely liquidated.

17. In view of the above facts and circumstances and Final Report of the Liquidator, we hereby direct that the Company shall be dissolved from the date of this order. The Petitioner is further directed to serve a copy of this order upon the Registrar of Companies, with which the Company is registered, within fourteen days of receipt of this order. The registrar shall take necessary action upon receipt of copy of the order.

Sd/-
Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-
H.V. Subba Rao
MEMBER (JUDICIAL)