



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) NO.105/ALD/2022

In the matter of:

An application under 59(7) of IBC, 2016 read with Regulation 38 of IBBI (Voluntary Liquidation Process) Regulations, 2017

In the matter of:

M/S OM Bakeries Private Limited
(In Voluntary Liquidation)
301, City Centre, the Mall, Kanpur,
Uttar Pradesh-208004

Through Liquidator
Mr. Sudhir Kumar Shukla
U-22, Ground Floor
Sangam Place
Civil Lines, Prayagraj
UP-211001

..... **Applicant/Corporate Person**

Order pronounced on 11.08.2023

CORAM:

Mr. Ashok Kumar Bhardwaj : Member (Judicial)

Mr. Ashish Verma : Member (Technical)

PRESENT:

For the Applicant : Sh. Anil Kumar PCS



ORDER

PER: SH. ASHISH VERMA MEMBER (T)

1. The present application CP (IB) No. 105/ALD/2022 was filed on 13.10.2022 by the Liquidator under section 59(7) of the Insolvency and Bankruptcy Code, 2016 (herein after referred as the “**Code**”) read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (herein after referred as the “**VLP Regulations**”) seeking dissolution of the company M/s Om Bakeries Private Limited (herein after referred to as the “**Company/Applicant**”).

2. That the aforesaid Company was incorporated on 05.08.1998 under the Companies Act 1956 having CIN No. U15412UP1998PTC023753. The registered office of the Company is situated at 301, City Centre, The Mall, Kanpur-208004 U.P, which lies within the territorial jurisdiction of this Bench. The Authorized Share Capital of the Company is Rs. 20,00,000/- (divided into 2,00,000 equity shares of R. 10/- each) and it's issued, subscribed and paid-up Share Capital of Rs. 10,02,000/- (divided into 1,00,200 equity shares of Rs. 10/- each).



3. As stated in the instant application the objective of the Company was to carry on the business of manufacturing and selling of the bakery products whether based in India or abroad etc.

As stated in the application as well as the Transaction Review Audit Report attached with the application, the company was running no business from last many years because of insignificant business operations. The company was running into losses and it was not commercially viable to revive and run the operations efficiently and very less probability of getting new business prospective as no revival plan could be worked out for the company. Considering these circumstances of not being able to run the business, the Board members in their meeting held on 28.02.2022 decided to wind up/liquidate the operations of the company.

4. It is further stated in the application that after deciding to voluntary liquidate the Company, the members of the company unanimously passed a special resolution u/s 59 of the Code in the Extra-Ordinary General Meeting held on 07.03.2022 approving the voluntary liquidation of the company. They appointed Mr. Sudhir Kumar Shukla, registered insolvency professional having



registered no. IBBI/IPA-001/IP-P-01139/2018-19/12386 as a liquidator of the company with effect from 07.03.2022. A written consent of the proposed liquidator has also been obtained. All these documents including copy of EGM Resolution dated 07.03.2022, consent letter of the Liquidator and his certificate of Registration are attached with the application in **Annexure-3 (Colly)**.

5. Presently, there are two directors in the Company namely, Mr. Shree Ram Agarwal and Mr. Radaha Krishan Agarwal, both working since 05.08.2998. Both the directors have given their duly signed “Declaration of Solvency” in the form of an Affidavit stating that “(i) I have made a fully enquiry into the affairs of the company and have formed an opinion that the Company has no debt; and (ii) The Company- is not being liquidated to defraud any person.”

6. It has been further stated in the application that as required for the resolution for voluntary liquidation of the Company, the Liquidator issued a public announcement in Form-A in terms of Regulation 14 of the VLP Regulations 2017 inviting the claim from the stakeholders and the same was uploaded on the web-site of



Insolvency and Bankruptcy Board of India (herein after referred as '**IBBI**') and also published in both English and Hindi newspapers, namely Financial Express and Jansatta on 10.03.2022. These documents are attached with the application in **Annexure - 4(Colly)**

7. Thereafter, the Applicant notified to ROC about the Board Resolution passed for commencement of voluntary liquidation and appointment of Liquidator by filing e-form MGT-14 vide SRN T86374816 dated 12.03.2022 on 12.03.2022. As required under section 59(3)(b) of the Code, the Applicant has also filed a copy of declaration of solvency, record of business operations, and financial statements of the Company for the period ending on March 2020 and March 2021 were filed by the company with ROC Form GNL-2 vide SRN T86371614 dated 12.03.2022. An email was also sent to IBBI on 11.03.2022 along with EGM Resolution, Public Announcement informing about the voluntary liquidation of the Company. All these documents are attached with the application in **Annexure -5 (Colly) and Annexure-6.**

8. In terms of Regulation 9 of the VLP Regulations, Preliminary Report dated 11.04.2022 was prepared by the liquidator and sent



to Directors of the company via email on 12.04.2022. Report has been found to be made in prescribed format giving details of capital structure, assets, liabilities etc. of the company as on 07.03.2022 (the date on which decision by directors was taken for liquidation of the company). As per this report, there is no Financial and Operational Creditor of the Company and also no claim has been received by him and therefore, all the outstanding demands are shown as “nil” in the said report. This report is attached with the application in **Annexure-7**.

9. As per the requirements of the Regulations 34(1) of the VLP Regulations, the Liquidator opened a Bank account of the Company in the name of “Om Bakeries Private Limited in Voluntary Liquidation” with Punjab National Bank, Sangam Palace Branch, Civil lines, Prayagraj for realization and payment to the creditors, members and stakeholders. The Liquidator closed the existing bank account of the Company with the SBI, Kanpur on 06.04.2022 and transferred the remaining balance in the newly opened previously mentioned bank account.

10. As required under section 178(1) of the Income-tax Act, 1961 on winding up of a company, the applicant has sent letter dated



10.03.2022 to the Income Tax Department informing about the above decision of the Voluntary Liquidation of the Company taken by the members of the Company with a request to file any outstanding claim. On being informed vide above letter, the concerned assessing officer of the Company in the Income Tax Department has issued No Dues Certificate dated 23.03.2022 stating “*no outstanding demand or any other proceedings is pending against the company*”. All these documents are attached the application in **Annexure-8** of the application.

11. The Liquidator appointed M/s Subhash Agarwal & Co., Cost Accountant for conducting a Transactional Review Audit of the Company for determination of PUFEE transactions in terms of Section 43, 45, and 50 and 66 of the Code for the period 07.03.2020 to 07.03.2022. They have submitted the report on 15.05.2022. In the report, the Auditor has not given any finding after considering the explanation of the directors on there being any fraudulent transaction or siphoning of funds by the company. This report is attached in with the application in **Annexure -14**.

12. In terms of section 35(2) of the Code read with Regulation 12 of the VLP Regulations, the Liquidator convened and held a



meeting of the stakeholders on 13.07.2022 and apprised them about the progress since the liquidation commencement date (i.e. 07.03.2022 till 13.07.2022) and status of liquidation as on date and also produced the Transactional Audit Report before them. Minutes of the said meeting is attached with the application in **Annexure A-11.**

13. The Liquidator received the claims of all stakeholders/shareholders in the prescribed form, informing their respective shareholdings and for claiming the residual amount. The Liquidator has made the necessary payments to the accounts of the stakeholders/shareholders account on 17.08,2022.

14. As regards the investment of the Company in unquoted equity shares in M/s Bakers Agrifoods private limited, it is stated in the application that these shares could not be liquidated in the open market and hence, the same were distributed among all the shareholders of the Applicant/Company on the basis of their share-holdings in the Company as decided by the stakeholders/shareholders taking the value per share as valued by Mr. Navin Khandelwal, a Registered Valuer-Security or Financial



Assets(SFA) . A copy of this report is attached with the application in **Annexure-12**.

15. After realization from all the assets available at the time of liquidation and settling all the claims of stakeholders on 17.8.2022 and meeting out all the expenses relating to the process of liquidation, the Liquidator prepared the details of accounts of liquidation showing receipts and payments pertaining to liquidation period since the liquidation commencement date (07.03.2022) till 18.08.2022 and sent to the Auditor for submitting his Audit Report thereon. The Auditor thoroughly reviewed the receipts and payments from the beginning of the liquidation process until 18.08.2022, and subsequently submitted their report on 23.09.2022. This report is attached with the application in **Annexure-11**

16. As further mentioned in the application that after payment of the surplus/residual amount to the stakeholders/shareholders of the company and liquidation expenses to the liquidator, the bank account opened in Punjab National Bank in Prayagraj for voluntary liquidation was closed on 06.10.2022 and thus, the liquidation process has stood completed.



17. As per Regulation 38(1), the Liquidator filed its Final Report dated 06.10.2022 and sent to the IBBI via email on 08.10.2022 and has also filed in e-form No. GNL-2 vide SRN F28114676 on 08.10.2022 to the Registrar of Companies (ROC), Uttar Pradesh at Kanpur.

18. In compliance of Regulation 38(3) of VLP Regulations, the applicant has submitted the Final Report of the liquidation process along with the Compliance Certificate in Form H to this Adjudicating Authority on 13.10.2022

19. Notice was issued to the concerned ROC Uttar Pradesh at Kanpur vide order dated 22.11.2022. The affidavit of service was filed vide Diary Nos.305 dated 10.01.2023. In compliance with the above order, ROC filed its report vide Diary No.1291 dated 26.04.2022, whereby it has stated that no inquiry/inspection/complaint/legal action has been proceeded/pending against the concerned company. It is further stated that the company has filed its annual return and balance sheets for the year 2021 and Liquidator Mr. Sudhir Kumar Shukla has filed final report in the MCA-21 Registry through GNL-2 vide SRN F28114676 on 08.10.2022.



20. We have heard the learned counsel appearing on behalf of the Applicant and have also carefully gone through the application filed by the Applicant/liquidator seeking dissolution in terms of section 59(7) of the Code. We have also duly considered the merits thereof in the light of the statutory provisions of Section 59 of the Code read with VLP Regulations. After examining the application, documents annexed therewith and the submissions made by the Liquidator, we find that the affairs of the Company have been completely wound up, and its assets completely liquidated and there is no litigation pending against the Company and there is no legal impediment in allowing the prayer of the applicant for taking on record the Final Report of the Liquidator and pass an order for dissolution of the Company.

21. Accordingly, we, in the exercise of the power conferred under Section 59 (8) of the Insolvency and Bankruptcy Code, 2016, order that the Corporate Person (the Company under liquidation in the present application) shall be dissolved from the date of this order.

22. In terms of Regulation 41 of VLP Regulations, the Applicant/Voluntary Liquidator shall preserve copies of all such records, which are required to give a complete account of the Voluntary



Liquidation Process. Further, the Applicant/Liquidator shall preserve a physical or an electronic copy of the reports, registers, and books of account referred to in Regulations 8 and 10 for at least 08 years after the dissolution of the corporate person, either with himself or with an information utility.

23. The Applicant is directed to serve the copy of this Order upon the Registrar of Companies (ROC), with whom the Company is registered, within 14 days of receipt of this Order. The ROC shall act as necessary upon receipt of a copy of this Order.

-Sd-

**(Ashish Verma)
Member (Technical)**

-Sd-

**(Ashok Kumar Bhardwaj)
Member (Judicial)**