IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-VI

CP (IB)-374/ND/2023

IN THE MATTER OF:

M/s RS COMMODITIES PRIVATE LIMITED
[IN LIQUIDATION]
CIN: U51101DL2006PTC147646
Registered Office: 4735/22, Room Number 219,
Prakash Deep Building, 2nd Floor, Delhi Medical Association Road,
Daryaganj, Delhi – 110002

(PETITIONER/CORPORATE PERSON)

ORDER UNDER SECTION: 59(8) of IBC, 2016

CORAM:
SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT
For the Applicant: Mr. Anand M Mishra, Adv.
For the Roc: Ms. Niharika Tanwar, Adv.

ORDER

PER: RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Date: 27.02.2024

1. This application has been 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 RS Commodities Private Limited (hereinafter referred to as the ("Company").

2. It is stated in the application that the aforesaid Company was incorporated on 17.03.2006 under the Companies Act, 1956 with the objective of carrying on the business of trading in agricultural products, metals including precious metals, precious stones, diamonds, petroleum and energy products and all other commodities and securities, in spot markets and in future of all kinds of derivatives. The Registered office of the Applicant is situated at Delhi, which lies within the territorial jurisdiction of this Bench.

3. It is submitted that the Company had Authorised Share Capital of Rs. 1,00,00,000/- (One Crore Only) divided into 10,00,000 equity shares of Rs. 10 each. The paid-up share capital of the company was 1,00,00,000/- as reflected from the Master Data of the company annexed to the petition.

4. The applicant contended that the Company had suspended its trading operations since a long time. The Management of the company had consultations with various professionals on options to revive the business, however concluded on the remark that no fruitful purpose would be served.

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

   i. That the Company was not carrying any business activities since a long time. As on the date of the commencement of Voluntary Liquidation Process i.e. 07.02.2023 company, the directors have furnished undertakings that the Applicant company does not have any employee hence no one's interest is likely to be affected and neither the company has any recurring expenses liability.

ii. The details of the directors of the Applicant Company as per available records on MCA 21 Portal are as follows:

a. Mr Rajesh Kumar Patni, Whole Time Director, C/o Raaj Ghar, Flat No – 6B, Ganpati Cottage, 1A- Court Road, Civil Lines, Delhi – 110054.

b. Mr. Susheel Kumar Jain, Whole Time Director, B – 100, 1st Floor, Defence Colony, Delhi – 110024.

iii. That Board of Director at Board meeting held on 12.01.2023 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, both the Directors of the Company, have made a declaration of solvency on 10.01.2023 approving the Statement of Affairs as on 05.01.2023 stating that: -

a. They have made full enquiry into the affairs of the Corporate Person, and they have formed an opinion that the company is able to pay its debt in full, and;

b. The Corporate Person is not being liquidated to defraud any person.

c. That as per the declaration of solvency, the company does not have any movable or immovable assets, hence no valuation report was required to be obtained under the provisions of Section 59 (3) of the Code.

d. The majority of Directors duly prepared and filed a Declaration of Solvency along with audited financial statements and record of business operations of the company for the previous two years with the Registrar of Companies, NCT of Delhi.

iv. The Liquidator has placed on record an affidavit stating that the company has not stood as gurantor in respect of any loan or other transaction. Further, Compliance Certificate (Form H) as per Regulation 38(3) of The IBBI (Voluntary Liquidation Process) Regulations, 2017 duly certified by the Liquidator has also been placed on record marked as Annexure-21 in the petition.

6. Thereafter, an extra-ordinary general meeting of the Corporate Person was held on 07.02.2023 wherein the members of the Corporate Person have passed a special resolution requiring the Corporate Person to be liquidated voluntarily and appointing Mr. Sachin Sapra, Registered Insolvency Professional [IBBI/IPA-002/IP-N00004/2016-17/10005], to act as the Liquidator in the matter.

7. That, the Petitioner Company filed the following E-Forms with the Registrar of companies, Delhi pertaining to Voluntary Liquidation which have been taken on record by RoC as affirmed in their report.

   a. Form MGT-14 vide SRN AA1376612 dated 16.02.2023 in respect of the Board Resolution passed by its directors dated 12.02.2023 for voluntary winding up.

   b. Form MGT-14 vide SRN AA1386915 dated 16.02.2023 in respect of Special Resolution passed by the Shareholder dated 07.02.2023 for voluntary winding up.

   c. Form MGT-14 vide SRN AA1398724 dated 16.02.2023 in respect of Declaration of Solvency by Directors dated 10.01.2023 under Section 59 of the IBC, 2016.

d. Form MGT-14 vide SRN AA1398724 dated 16.02.2023 in respect of appointment of Liquidator under Section 59 of the IBC, 2016.

e. Form GNL-2 vide SRN AA2359991 dated 08.05.2023 under Regulation 38 of IBBI (Voluntary Liquidation Process) Regulations, 2017

8. That the Applicant Company does not have any Creditors hence their consent is not required as per section 59 (3) of the Code.

9. That the public announcement was made on 10.02.2023 in Financial Express (English, Delhi Edition) and Jansatta (Hindi, Delhi Edition). It is submitted that no claim from any stakeholder had been received in response to the published public announcement. Copy of the publication was also forwarded to the IBBI for publication on its website by the Liquidator on 11.02.2023.

10. It is submitted that list of stakeholders was prepared in pursuance of Regulation 30 of IBBI [Voluntary Liquidation Process] Regulations, 2017 was prepared. It is further stated that in terms of Regulation 9(1) of the said Regulations,

11. That the Liquidator has prepared its final report which has been submitted with the RoC and IBBI on 08.05.2023.

12. The RoC in its report dated 02.08.2023 stated that as per their records, no inquiry/inspection/complaint/ legal action that there are no pending investigations under Company Act, 2013 or any previous Company Law against the Applicant Company.

13. It is submitted that distribution of Liquidation proceeds was started and share of shareholders were paid in full on 29.03.2024 and the intimation of the same had been sent to all shareholders.

14. The Applicant submitted that no other assets of the Corporate Person were left to be realized.

15. It is contended by the Applicant that the Liquidation Account maintained with HDFC Bank Ltd Branch at Asaf Ali Road, Delhi bearing Current A/C No. 00030340021744 was closed. It is further submitted that in terms of Regulation 34 of The IBBI (Voluntary Liquidation Process) Regulations, 2017, a separate Current Account being A/C No. 50200078810571 was opened in the name of "Liquidation A/C RS COMMODITIES PVT LTD" with "HDFC Bank Limited" having branch at Krishna Nagar, Delhi, the request for the closure of Liquidation Account has been made. We are relying on this averment and presume in good faith that the said account would have been already closed by now.

16. It is submitted that a certificate by M/s AVG & Co., Chartered Accountants was also obtained confirming that no statutory dues were outstanding to any Statutory Authority by the Company herein. Further M/s AVG & Co., also confirmed that **NO** preferential/undervalued/related party or extortionate credit transactions were entered by the Company via certificate dated 11.03.2023.

17. Counsel for the Liquidator submitted that liquidation has been completed in terms of Regulation 37 Of the IBBI (Voluntary Liquidation Process) Regulations, 2017 on 08.05.2023 and the final reports were submitted by the Liquidator to the IBBI as well as RoC on 08.05.2023. Screenshot of IBBI Website indicating that the Corporate Debtor is undergoing liquidation has been placed on record.

18. 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.

19. We have gone through the application filed by the applicant/ Liquidator seeking dissolution in terms of section 59(7) of the Code and have heard the arguments of the Ld. Counsel for the applicant.

20. 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. The Liquidator Mr. Sachin Sapra, is hereby discharged of his duties as a liquidator.

21. 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 HDFC Bank Limited 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.

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

23. File be consigned to the Record Room.

-SD/-	**-SD/-**
(RAHUL BHATNAGAR)	**(MAHENDRA KHANDELWAL)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**