IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CP No.764/MB-IV/2021

Under Section 59 (7) of the I&B Code, 2016 r/w Regulation 38 (3) of IBBI (Voluntary Liquidation Process), 2017.

SHIFT INDIA PRIVATE LIMITED
[CIN: U74999PN2012FTC143023]

.... Petitioner/ Corporate Person

Order dated 30.09.2022

Coram:

Mr. Manoj Kumar Dubey Hon'ble Member (Technical)	Mr. Kishore Vemulapalli Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Mr. Atit Kumar Soni.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. The Court is convened through Video Conference.

2. This is a Company Petition filed under section 59 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") by a Corporate person, named Shift India Private Limited [CIN:

U74999PN2012FTC143023] through Mr. Rajkumar Mahto, Liquidator, Registration No.- IBBI/IPA-002/IP-N00723/2018-19/12209, to initiate Voluntary Liquidation proceedings under Code. The Corporate Person is a subsidiary company of namely Shift Inc., Japan. The Corporate Person was involved in the business of providing software-based services. The Corporate Person has complied with requisite formalities and procedure of liquidation as per law and has filed this Petition for its dissolution under section 59(7) of the Code.

3. The Petitioner Company was incorporated, under the provisions of Companies Act, 1956, on 18.04.2012 as a Private Company Limited by Shares with Registrar of Companies, Pune. The Authorized Share capital of the Company is ₹ 5,00,000/- divided into 50,000 Equity Shares of ₹10/- each. The Registered office of the Company is situated at 413, 4th Floor, City Square, behind the Pride Hotel Next to Zenith Complex, Shivaji Nagar, Pune- 411005, Maharashtra.

4. The Company, at present, has two directors Mr. Masakazu Suga (DIN: 07179431), Mr. Manisha Sudhir Ohol (DIN: 08082101), as per the details available on MCA website. It is sumbitted that the Company is not carrying any business. Accordingly, the Board of Directors (BOD) of the Company in their meeting held on 20.06.2019 resolved to Voluntarily Liquidate the Company by passing a Declaration of Solvency which is annexed at pp.37-89 of

the Company Petition. The liquidation commencement date is 23.07.2019.

5. All the Directors of the Company have declared on Affidavit dated 20.06.2019 that they have made full inquiry into the affairs of the Company and are of the opinion that the Company will be able to pay its debts in full from the proceeds of assets to be sold in Voluntary Liquidation and the Company is not being liquidated to defraud any person. The Directors have appended to the affidavit above, audited financial statements and record of business operations of the Company of previous two financial years viz. as at 31.03.2018 and 31.03.2019.

6. The members of the Company in their Extraordinary General Meeting held on 16.07.2019 passed a Special Resolution to Liquidate the Company voluntarily and to appoint Mr. Rajkumar Mahto, Insolvency Professional, as liquidator, having Registration No. IBBI/IPA-002/IP-N00723/2018-19/12209, with a remuneration of Rs. 1,00,000/- exclusive of out of pocket expenses, at actuals, towards Voluntary Liquidation of the company.

7. The Liquidator made a public announcement of commencement of liquidation in Form A of Schedule I as per regulation 14 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2016 in the Business Standard (English newspaper) and in Kesari (Marathi newspaper) on 20.07.2019 inviting for the submission of claims due to Shift India Private Limited by various stakeholders which is annexed at pp.108-109 of

the Company Petition. The aforesaid public announcement was submitted to Insolvency and Bankruptcy Board of India (IBBI) to place the same on website on 17.07.2019.

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 GNL-2 which is annexed at pp.111-118 of the Company Petition.

9. The Liquidator received claims from the 3 (Three) Operational Creditors, and none from Financial Creditors, Workmen and other Stakeholders under the advertisement published in the newspaper.

10. Since the creditors have already been paid off, the requirement of the Special Resolution being approved by creditors having 2/3rd value of shares as required under proviso to sub-section (3) of Section 59 does not arise. The list of the Creditors and the Shareholders is annexed as 'Exhibit-12' at page no 204 of the Company Petition.

11. The Company notified the Registrar of Companies, Mumbai on 23.07.2019 about the passing of a Special Resolution to liquidate the Company. The Liquidator has intimated his appointment to the Income Tax Officer, Circle 1(2), PMT Building Swargate, Pune-411042, Pune, Maharashtra on 22.08.2019. The Liquidator has also submitted the NOC issued by the Income Tax Department to him

vide letter dated 7.01.2020 which is annexed at pp.122-125 of the Company Petition.

12. The Liquidator has also intimated various other departments viz. Sales Tax Department vide letter dated 01.08.2019, Employees State Insurance Corporation vide letter dated 15.07.2019, Regional Provident Fund Commissioner vide letter dated 29.07.2019, The Commissioner of Central Goods and Service Tax (CGST) vide letter dated 12.08.2019, Maharashtra Labour Welfare Board vide letter dated 27.08.2019, Software Technology Park Authorities vide letter dated 25.09.2020, Director General of Foreign Trade vide e-mail dated 07.07.2020.

13. As per regulation 34 of IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator has duly opened a Bank Account in the name and style of "Shift India Private Limited in Voluntary Liquidation" (A/c No.- 919020075087640) with Axis Bank. The said Account was also closed on 07.05.2021. Email dated 07.05.2021 sent by Kharadi Branch Operations head, Axis Bank to the Liquidator confirming the closing of liquidation bank account is annexed at pp.143 of the Company Petition.

14. The Liquidator has submitted his Preliminary Report dated 27.08.2019 as required under Regulation 9 of IBBI (Voluntary Liquidation Process) Regulation, 2017.

15. The copy of the Final Report of the Liquidator dated 28.05.2021 is annexed to the petition, which shows the realization and payment

to the members of the Company, containing the details as required under Regulation 38 of IBBI (Voluntary Liquidation Process) Regulation, 2017. The said Final Report of the Liquidator is submitted with the Registrar of Companies on 08.06.2021 and sent to IBBI via email on 23.06.2021 which is annexed at pp. 224-227 and pp. 23.06.2021 of the Company Petition respectively.

16. The Liquidator has filed this petition before this Tribunal under section 59(7) of IBC seeking an order of dissolution of the Petitioner company.

17. The Liquidator has filed this petition before this Tribunal under section 59(7) of IBC seeking an order of dissolution of the Petitioner company.

18. 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.

19. In view of the above facts and circumstances and the submissions made by the Liquidator the Company deserves to be dissolved. Accordingly, we at this moment direct that the company shall be dissolved from the date of this order.

20. 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 a copy of this order.

Sd/-	**Sd/-**
Manoj Kumar Dubey Member (Technical) 30.09.2022	Kishore Vemulapalli Member (Judicial)