IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
[Through Physical hearing/ VC Mode (Hybrid)]

C.P.(IB)No.111/BB/2023
U/S.59 of the Insolvency and Bankruptcy Code, 2016
R/w. Insolvency and Bankruptcy Board of India
(Voluntary Liquidation Process)
Regulations, 2017

In the matter of:
Mr. Vasudevan Gopu
Liquidator of M/s. Elken International India Pvt. Ltd.
'G.V. Enclave' 18/30, Ramani Street,
K.K.Pudur, Saibaba Colony (4th Right
Opp. Road to Saibaba Colony Hotel Annapoorna Road),
Coimbatore – 641 038. - Applicant/Petitioner

Order delivered on: 15th February, 2024

Coram: 1. Hon'ble Shri K. Biswal, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the Liquidator : Ms. Vinuta Venkat Rao Undale, PCS

O R D E R

Per: K. Biswal, Member (Judicial)

1. The instant Company Petition is filed under Section 59 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the IBC, 2016) on 24.07.2023 by Mr. Vasudevan Gopu, Liquidator of M/s. Elken International India Pvt. Ltd. Seeking, *inter alia*, a direction for dissolution of the Petitioner Company with effect from the date of order passed by this Adjudicating Authority.

2. The Petitioner Company, (hereinafter referred to as "Applicant/Petitioner Company/Corporate Person") was incorporated under the provisions of the Companies Act, 1956, as a Company limited by Shares in New Delhi on 20.12.2002 having CIN: U01551KA2002PTC032972. The registered office of the Company was shifted from New Delhi to Karnataka in 2003 with the approval of Company Law Board, Northern Region Bench, New Delhi, vide Order

dated 16.10.2003. The Certificate for Registration of the Order of Company Law Board confirming transfer of the Registered Office from one state to another was issued on 04.12.2003. The registered office of the Company is currently situated at No.25, 2nd Floor, 8th Main, Vasanth Nagar, Bengaluru. Its Authorized Share Capital is Rs.64,43,50,000/- divided into 64,43,500/- Equity Shares of Rs.100/- each. The issued, subscribed and paid-up capital of the Company is Rs.56,87,42,400/- divided into 56,87,424 Equity Shares of Rs.100/- each. The main objects of the Company is engaged in the business of manufacturers, processors, importers, exporters, buyers, sellers, suppliers, stockists, agents, merchants, distributors and dealers in beverages of all kinds and description, etc.

3. The following averments have been made in the Petition:

(a.) The Board of Directors of the Company in their meeting held on 09.12.2022 for taking note of **Declaration of Solvency** of the Company as required under Section 59 (3) (a) of the IBC, 2016 by majority of the Directors, decided to wind up the affairs of the Company by voluntary liquidation of Corporate Person. Further, the Board of the Directors have filed Declaration of Solvency dated 09.12.2022 stating that they have made full enquiry into the affairs of the Company and the Company will be able to pay its debts in full from the proceeds of its assets during the voluntary liquidation of the Company. Further it is declared that the Company is not being liquidated to defraud any person;

(b.) The Company in its Extraordinary General Meeting held on 14.12.2022 passed **a Special Resolution to liquidate the Company voluntarily,** and appointed Mr. Vasudevan Gopu, IP to act as Liquidator of the Company. A copy of the minutes of the EOGM is attached along with the Petition.

(c.) The Audited Financial Statements of the Company as on 31.03.2021 and 31.03.2022 along with Auditor's Report has been filed;

(d.) The commencement of liquidation and appointment of liquidator is intimated to the ROC in Form MGT-14 on 15.12.2022 and GNL-2 (for submissions of documents) on 12.12.2022. The Public Announcement was simultaneously submitted to Insolvency and Bankruptcy Board of India to place the same on its website on 15.12.2022;

(e.) **Public Announcement (Regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Liquidator made a Public Announcement of commencement of liquidation in Form A, in 'The Hindu', English Newspaper and 'Udayavani', Kannada Newspaper on 15.12.2022, seeking submission of the claim by the stakeholders, if any, on or before 30 days dated 13.01.2023. The date of commencement of liquidation is 14.12.2022;

(f.) **List of stakeholders (Regulation 30 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** – It is submitted that there were claims received from third – party shareholders i.e. Commissioner of Commercial Taxes and State Tax, Govt. of West Bengal received on 11.01.2023 and ESI Corporation, Regional Office, Karnataka received on 24.04.2023;

(g.) **Preliminary Report (Regulation 9 (1) of Chapter IV of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** – The Liquidator submitted the preliminary report to the Company on 25.01.2023.

(h.) **Opening of Bank Account (Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** – As required under Regulations, the liquidator opened a separate Bank Account in the name of M/s. Elken International India Pvt. Ltd. In Voluntary Liquidation with the Hongkong and Shanghai Banking Corporation Limited, Bangalore Branch for Liquidation purposes;

(i.) **As per provisions of Section 178 of the Income Tax Act, 1961,** the Applicant intimated the commencement of liquidation and appointment of liquidator to the Income Tax Authority on 20.12.2022;

(j.) **Distribution of Liquidation Proceedings** – It is submitted that there were no unclaimed dividends and undistributed proceeds in the liquidation process and the assets of the Company were fully liquidated and distributed to the concerned Stakeholders of the Company;

(k.) **Bank Account Closure** – It is submitted that the Liquidator has closed the HSBC Account on 07.07.2023;

(l.) **Final Report – Regulation 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017) –** The Liquidator had the Accounts audited for the liquidation period and submitted his Final Report on 10.07.2023. In connection with the Accounts of the liquidation, the CA Certificate showing receipts and payments pertaining to liquidation period i.e. 01.02.2023 to 20.06.2023 has been completed in following manner:

ELKEN INTERNATIONAL INDIA PRIVATE LIMITED – IN VOL LIQ						
LIQUIDATOR'S FINAL STATEMENT OF ACCOUNTS – RECEIPTS AND PAYMENTS						
RECEIPTS			**PAYMENTS**			
Date	Particulars	Amount (in INR)	Date	Particulars	Nature of Payment	Amount (in INR)
	Assets realized:			**Liquidation expenses**		
01.02.2023	Bank Balance Realised	38,89,027	09.06.2023	Liquidator fee paid (after TDS deduction)	Liquidation fee	1,29,600
01.06.2023	Rental Deposits Realised	53,495	09.06.2023	Fee towards Liquidation accounts audit certification	Liquidation expenses	15,000
			12.06.2023	TDS deducted and paid on Liquidator fee	TDS – as per section 194J of Income tax Act 1961 – Liquidator fee	12,000
			20.06.2023	Bank charges	Bank Charges on Remittance	4,901
				Distribution to stakeholders		
			09.05.2023	Commercial taxes West Bengal- statutory claim	Statutory dues	1,019
			18.05.2023	ESIC – statutory claim	Statutory dues	1,738
			09.06.2023	Payment to creditor – statutory audit fee	Distribution to stakeholder	65,850
			20.06.2023	Payment to Shareholders (2 nos.)*	Distribution to equity shareholder	37,12,414
		39,42,522				**39,42,522**

***** The entitlement of Re.1 to Reville Pte Ltd., was waived off by the shareholder as there was practical difficulty in remitting that amount which is in value less than a dollar.

(m.) The Final Report dated 10.07.2023 of the Liquidating Company was submitted with ROC and IBBI on 13.07.2023.

4. Heard Ms. Vinuta Venkat Rao Undale, Ld. PCS appearing for the Liquidator. We have carefully perused the records and extant provisions of the Code and the Regulations made thereunder.

5. Therefore, the affairs of the Corporate Person have been completely wound up and its assets have been liquidated and nothing remains to be liquidated. Thus, the compliances of Section 59 and other relevant provisions of the Insolvency and Bankruptcy Code, 2016 r/w. Regulation 37(2) of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 is completed from the date of commencement of the liquidation proceedings. Hence, we are of the considered view that the Corporate Person, through its liquidator, has been voluntarily liquidated.

6. In view of the foregoing, **M/s. Elken International India Private Limited,** the Applicant Company is hereby dissolved with effect from the date of this order. A copy of this order be filed with the ROC within fourteen days from the date of receipt of copy of this order.

7. The Petition bearing **C.P.(IB) No.111/BB/2023** is accordingly allowed in the above terms.

-Sd-
MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

-Sd-
K. BISWAL
MEMBER (JUDICIAL)