IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CP (IB) No.77/MB-IV/2021

Under Section 59 of the I&B Code, 2016
In the matter of

Aoki Laboratory India Private Limited
[CIN: U29253MH2015FTC263372]

.... Petitioner/Corporate Person

Order dated 29.09.2022

Coram:

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

Appearances (via videoconferencing):

For the Petitioner(s)	:	Ms. Prachi Wazalwar a/w Ms. Heena Vichare, Ld. Counsel for the Petitioner.

ORDER

Per: Mr. Kishore Vemulapalli, Member (Judicial)

1. The Court was 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 Aoki Laboratory India Private Limited [CIN: U29253MH2015FTC263372] through Mr. Shashikant Shravan Dhamne, Liquidator, Registration No.- IBBI/IPA-001/IP-P00237/2017-18/10466, to initiate Voluntary Liquidation proceedings under Code. The Corporate Person is a wholly owned

subsidiary of a Foreign Company viz Aoki Technical Laboratory Inc., Japan. 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. The petition was filed on 27.11.2020.

3. The Petitioner Company was incorporated, under the provisions of Companies Act, 2013, on 08/04/2015 as a Private Company Limited by Shares with Registrar of Companies, Pune. The Authorized Share capital of the Company is ₹ 5,00,00,000/- divided into 50,00,000 Equity Shares of ₹10/- each. The Issued, Subscribed and Paid-up Share Capital of the Company is ₹ 4,50,00,000/- divided into 45,00,000 Equity Shares of ₹10/- each. The Registered office of the Company is situated at 1 & 2 Floor, Kagalwala House, PlotNo.175, Behind Metro House CST Road, Kalina, BKC, Sanatacruz (E), Mumbai- 400098, Maharashtra.

4. The Company, at present, has three directors Shuichi Koshi (DIN: 07028535), Hiroshi Chino (DIN: 08125087), Mr. Brajesh Vijay Buchha (DIN: 08406201) 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 26.11.2019 resolved to Voluntarily Liquidate the Company by passing a Special Resolution which is annexed at pp.147 of the Company Petition. The Declaration of Solvency given by both directors is annexed at pp.58 & 105 of the Company Petition. The liquidation commencement date is 26.11.2019.

5. The Directors of the Company have declared on Affidavit dated 20.11.2019 and 21.11.2019 that they have made full inquiry into the affairs of the Company and are of the opinion that the Company has no debts 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 which are annexed at pp.63-103 of the Company Petition.

6. The members of the Company in their Extraordinary General Meeting held on 26.11.2019 passed a Special Resolution to liquidate the Company voluntarily and to appoint Mr. Shashikant Shravan Dhamne, Insolvency Professional, as liquidator, having Registration No. IBBI/IPA-001/IP-P00237/2017-18/10466, with a remuneration which shall be reasonable and commensurate with the work being handled by him, to act as the liquidator.

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 Financial Express (English newspaper) and in Navshakti (Marathi newspaper) on 28.11.2019 inviting for the submission of claims due to Aoki Laboratory India Private Limited by various stakeholders which is annexed at pp.167-168 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 26.11.2019.

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 on 27.11.2019 which is annexed at pp.157-164 of the Company Petition.

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

10. Since there are no creditors in the Company, 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.

11. The Company notified the Registrar of Companies, Mumbai on 27.11.2019 about the passing of a Special Resolution to liquidate the Company. The Liquidator notified the IBBI on 03.12.2019 (pp.165) about the passing of a Special Resolution to liquidate the Company. The Liquidator has intimated his appointment to the Income Tax Officer, Ward 12(2)(4), Maharshi Karve Road, Churchgate, Mumbai-400020, Maharashtra on 29.11.2019 inviting it to submit the claims as on the liquidation commencement date. The same is attached on Pg. 158 of the Company Petition. The Liquidator has also submitted the Circular No.- IBBI/LIQ/45/2021 dated 15.11.2021 issued by IBBI stating that NOC from the Income Tax Department is not required as a part of compliance in the Voluntary Liquidation Process via email and the hard copy of the said circular was also filed by the Liquidator.

12. 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 "Aoki Laboratory India Private Limited" (A/c No.- 007784900000102) with Yes Bank. The letter dated 08/09/2020, was issued by the bank informing that the said current account has been closed with effect from 20.03.2020 and is annexed at pp.178 of the Company Petition.

13. The Liquidator has submitted his Preliminary Report dated 06.01.2020 as required under Regulation 9 of IBBI (Voluntary Liquidation Process) Regulation, 2017.

14. The copy of the final report of the Liquidator dated 12.10.2020 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 22.10.2020 and sent to IBBI via email on 17.10.2020 which is annexed at pp. 189, pp. 188 of the Company Petition respectively.

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

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

17. 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/-
Mr. Manoj Kumar Dubey	Mr. Kishore Vemulapalli
Hon'ble Member (Technical)	Hon'ble Member (Judicial)
29.09.2022	