

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT – V**

C.P.(IB)/234/ND/2023

*[Under Section 59(7) of the Insolvency & Bankruptcy Code, 2016 read with
Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process)
Regulations, 2017]*

In the matter of:

**SERGI TRANSFORMER EXPLOSION PREVENTION TECHNOLOGIES
PRIVATE LIMITED**

CIN: U31909DL2005PTC277234

Through Liquidator Mr. Vikram Kumar

...Applicant

Order Delivered on: 30.01.2024

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Aditya Gupta, Adv.

For the IT Department : Mr. Gaurav Gupta, Sr. St. Counsel with
Mr. Puneett Singhal, Mr. Shivendra Singh,
Advs.

ORDER

PER: SHRI MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

1. The instant application has been filed by the Voluntary Liquidator Mr. Vikram Kumar on behalf of M/s SERGI Transformer Explosion Prevention

Technologies Private Limited (Applicant) under Section 59 of the Insolvency & Bankruptcy Code, 2016 (“Code”) read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (“Voluntary Liquidation Regulations”) seeking the following prayer(s): -

- a. To admit the Application filed under Section 59 of the Insolvency and Bankruptcy Code, 2016 upon voluntary liquidation of the Corporate Person as per the mandate laid down in Section 59 of the Insolvency and Bankruptcy Code, 2016;
 - b. To pass an order for dissolution of the Corporate Person as the company is completely wound up and all the assets of the Corporate Person have been completely liquidated;
 - c. That necessary direction may be issued to the Registrar of Companies, Delhi, the authority with which the Corporate Person is registered, to strike off the name of the Corporate Person from its records and issue such other directions to the Registrar of Companies as this Hon'ble NCLT deems fit and necessary;
 - d. Any other order that this Hon'ble NCLT deems fit and proper in the facts and circumstances of the case.
2. The brief facts, giving rise to filing of the instant Application, which are just and necessary for adjudication, are narrated hereunder: -
- i. The Applicant i.e., M/s Sergi Transformer Explosion Prevention Technologies private Limited was incorporated on 01.01.2005 under the provisions of the Companies Act, 1956 having CIN: U31909DL2005PTC277234 and registered office situated at 47, 48 & 71, First Floor, Sector 16-B Dwarka, Phase-II Delhi South West Delhi - 110078.
 - ii. The Applicant submits that since its incorporation it was engaged in the business of transformer explosion prevention equipment, Fire Prevention Systems, Industrial Power Protection Systems and Power Conditioning Products.
 - iii. That, at the time of initiation of Voluntary Liquidation, the Authorized Share Capital of the Company was Rs. 4,00,00,000/- (Fourth Crore Only) divided into 8,000/- (Eight Thousand Only) equity shares of Rs. 5,000/- each and the Paid-up Share Capital of the Company was Rs. 2,84,75,000/- (Rupees

Two Crore Eighty-Four Lakh Seventy-Five Thousand Only) divided into 5695/- (Five Thousand Six Hundred Ninety-Five Only) equity shares of Rs. 5,000/- each.

- iv. That, at the time of initiation of the Voluntary Liquidation of the Company, the company had four (4) directors, i.e.,

S. No.	Name	DIN
1.	Philippe Magnier	01194265
2.	Antoine Magnier	02540274
3.	Sunil Goel	06926434
4.	Amaud Magnier	01194324

- v. That, at the time of initiation of Voluntary Liquidation of the Company, the Company had two (2) shareholders, holding share as mentioned hereunder:

Folio No.	Name of the Shareholders	As At 26th September 2022	
		No. of Shares	% of Holding
01	Sergi Transformer Protector, France	5,694	99.98%
02	Antoine Magnier	1	00.02%

- vi. The copies of the Audited Balance Sheet (along with Profit & Loss Account, its Schedules and Auditors Report) of the company for the years ended on 31.03.2021, 31.03.2022 and as on 29.09.2022 are placed on record.
- vii. Under section 59(3)(a) of the Code, majority directors of the Corporate Person have to make a declaration through affidavit that the directors have made complete inquiry in the affairs of the Corporate Person and no debt is payable by the Corporate Person or the Corporate Person is capable of paying the debts with the assets realised in voluntary liquidation. Accordingly, Mr. Sunil Goel on 26.09.2022, and Mr. Antoine Magnier & Mr. Phillippe Magnier on 23.09.2022, directors of the Company signed the declaration of solvency on affidavit, declaring that they have made full inquiry into the affairs of the company and have formed an opinion that the company has no liabilities

and the Company is not being liquidated to defraud any person. A true copy of declaration from directors of the Corporate Person along with audited financial statements, Valuation Report of assets of the Company and record of business operations of the Corporate Person for the preceding two financial years are placed on record.

- viii. That the liquidator of the company has opened the bank account with RBL Bank under the name of the Company as "Sergi Transformer Explosion Prevention Technologies Private Limited- in Voluntary Liquidation ".
- ix. Under Section 59(3)(c) of the Code, within four (4) weeks of the declaration, a special resolution is to be passed by the members of the Corporate Person for initiating voluntary liquidation and appointment of insolvency professional. Accordingly, an extra ordinary general meeting of the members of the Corporate Person was held on 26.09.2022 i.e., Liquidation Commencement Date, and passed a special resolution for initiating voluntary liquidation proceedings of the Corporate Person and appointed Mr. Vikram Kumar, an Insolvency Professional bearing registration no. IBBI/IPA-001/IP-P00082/2017-2018/10178 to act as the liquidator of the Corporate Person.
- x. In compliance of Section 117 of the Companies Act, 2013, the Liquidator has filed the aforesaid Special Resolution with the Registrar of Companies in E-Form MGT-14 on 07.10.2022. Copy of E-Form MGT-14 filed with the Registrar of Companies is placed on record.
- xi. In compliance of Section 59(4) of the I & B Code, 2016, the Liquidator has notified the Registrar of Companies about the Special Resolution passed in the Extra Ordinary General Meeting vide letters dated 29.09.2022. Copy of letters dated 29.09.2022 are placed on record.
- xii. In compliance of Regulation 14(1) and 14(3)(a) of IBBI (Voluntary Liquidation Process) Regulations, 2017, the Applicant made a public announcement of initiation of voluntary liquidation of the Corporate Person in Form A in two newspapers (i.e.) 'Financial Express' and 'Jansatta' on 29.09.2022, calling for submission of claims by the stakeholders, if any, within 30 days from the date of commencement of voluntary liquidation of the Corporate Person (i.e.) 29.10.2022.

- xiii. In compliance of section 179 of the Income Tax Act, 1961, the Liquidator has intimated the jurisdictional assessing officer vide letter dated 30.09.2022 about the commencement of liquidation proceedings of the company and the same was acknowledged by the Income Tax Department on 03.10.2022. However, no claim was received from the Income Tax Department. Copy of letter dated 30.09.2022 is placed on record before us.
- xiv. In compliance of Regulation 9(1) of the (Voluntary Liquidation Process) Regulations, 2017, the preliminary report was submitted by the Liquidator on 07.11.2022 and the same is taken on record.
- xv. Pursuant to Regulation 12 of IBBI (Voluntary Liquidation Process) Regulations, 2017, Liquidator in the meeting held on 08.11.2022 apprised the stakeholders about the progress in Liquidation Process and it was decided that the cash and cash equivalents as per the books of the corporate person as on 26.09.2022 shall be utilized to meet the liquidation cost and the balance shall be distributed among the shareholders of the company in proportion to their shareholding.
- xvi. Pursuant to the provisions of Regulation 38 of IBBI (Voluntary Liquidation Process) Regulations, 2017 the Liquidator has filed the final report dated 06.02.2022 with the Registrar of Companies and the Insolvency and Bankruptcy Board of India specifying that: -
- (a) The Corporate Person does not have any assets as on date.
 - (b) There are no debts outstanding for payment as on date.
 - (c) There is a pending litigation by CTR Manufacturing Industries Limited against the Corporate Person. Further, the liquidator has not received any claim against the litigation pending against the Corporate Debtor.
- xvii. The certified copy of bank statements of liquidation Bank Accounts opened in RBL Bank showing all the receipts and payments made to stakeholders and contributories of the company is placed before us.
- xviii. The Liquidator has prepared Compliance Form in Form-H as per Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017.
- xix. In compliance of Regulation 38(2) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the liquidator

had submitted the Final Report of the liquidation to the Insolvency and Bankruptcy Board of India and the Registrar of Companies.

- xx. The Liquidator intimated the RBL bank for closure of Liquidation account and the same has been closed on 19.01.2023. Copy of letter dated 18.01.2023 along with closure statement dated 19.01.2023 is placed on record.
- xxi. Upon scrutiny of record submitted with him, the Liquidator is satisfied that the affairs of the company have not been conducted in a manner prejudicial to the interest of its members and thus the company may be dissolved.

3. We have heard the submissions made by the Ld. Counsel and perused the documents annexed to the petition. From a perusal of the instant Application and documents annexed therewith, it is seen that the Liquidator, after his appointment has duly performed his duties and completed necessary formalities to complete the liquidation process of the Applicant Company, which has been averred in the present application. Further, it is also evident that the Liquidator had duly opened an account in the name of Corporate Person with Bank for realization and payment to the members. Thus, the Liquidator has prayed for an order from this Adjudicating Authority to dissolve the applicant company.

4. The Adjudicating Authority vide order dated 24.04.2023 had directed the Liquidator/applicant to take necessary steps and furnish the following in support of the application:

- a. How the reserves have been treated and also details of utilisation of reserve amount ear-marked as a reserve.
- b. Confirmation from the Liquidator that the Company has not undertaken any guarantee obligations.
- c. Confirmation that Liquidator has verified all the books of accounts carefully and existence or non-existence of the creditors of the Company and payment made to the Creditors, if any.
- d. Waiver of debts to be recovered which are reflected in the balance sheet/treatment given.

5. The Liquidator/applicant in compliance of the order dated 24.04.2023 had filed an affidavit dated 09.05.2023 and thereby affirmed that:

- a. The Corporate Person had negative reserves of INR 2,73,92,000/- and the same could not be utilized or disbursed during the Liquidation Process.
 - b. That Corporate Person had no existing guarantee obligation and further had not undertaken any guarantee obligations since 26.09.2022.
 - c. As per the books of accounts, the Corporate Person did not have any creditors and further no claims were received by the Corporate Person.
 - d. The Corporate Person did not have any outstanding debt as per the books of accounts. Mr. Sunil Goel had contributed to meet liquidation expenses in view of negative reserves of the CD and further waived his right to recovery with an undertaking dated 11.01.2023.
6. Further, no adverse comments have been received from any statutory authority or from public at large against such dissolution of the Applicant Company, despite there being a public announcement by the liquidator and also updating of the same in the website of the Insolvency and Bankruptcy Board of India (IBBI). Neither the Registrar of Companies nor the Income Tax Department had any Report against the Dissolution of Corporate Person. It is also evident from the record that the proposed liquidation was duly communicated to the Registrar of Companies, NCT of Delhi & Haryana as per Form MGT-14 filed with the Registrar of Companies, NCT of Delhi and Haryana. It appears that the affairs of the Applicant Company have been completely wound up and its assets have been completely liquidated and no liabilities have been left unsatisfied. We have also duly considered the merits thereof, in the light of the statutory provisions of Section 59 of the Code, 2016 read with the relevant regulations.
7. The Liquidator had filed copies of newspaper publication as well as copy of public announcement in Form-A. The Liquidator in compliance of Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 had placed on record the Compliance Certificate in Form-H annexed as Annexure A-20 at page no. 143-150 of the present application.
8. Further as per record of the present case, it is seen that the Applicant Company is not found being involved in such kind of business activities, which are detrimental to the interest of the public at large. Furthermore, it is not the case

that the proposed dissolution may adversely affect its shareholders/members or is contrary to the provisions of law.

9. By taking into consideration the above stated facts and circumstances, the instant Application **C.P.(IB) 234/ND/2023** stands **allowed**. Consequently, this Adjudicating Authority in exercise of power conferred to it under Section 59 (8) of the Insolvency and Bankruptcy Code, 2016, orders that the Applicant Company i.e., M/s. SERGI TRANSFORMER EXPLOSION PREVENTION TEHCNOLOGIES PRIVATE LIMITED having CIN: U31909DL2005PTC277234 shall stand dissolved with effect from the date of pronouncement of this order.
10. The Liquidator is directed to communicate a copy of this order to the respondent i.e., Registrar of Companies, NCT of Delhi & Haryana, wherein the registered office of the Applicant Company is situated. Further, a copy of this order should also be communicated to the IBBI, New Delhi, for information. Such communication should be made within the stipulated period of fourteen (14) days from the date of receipt of certified copy of this order.
11. The Registry is directed to send e-mail copies of the order forthwith to the Applicant Company represented by its Liquidator and its Ld. Counsel for taking further necessary steps.

File be consigned to the records.

Sd/-
(DR. SANJEEV RANJAN)
MEMBER (T)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (J)