



IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)

C.P. (IB)No.109/BB/2022
U/s 59(7) of the IBC, 2016

In the matter of:

Kiewit India LLP

Represented by Mr. Vivek Mallya

Liquidator of Kiewit India LLP

Overseas Exports Building,
Jayanagar, 07th Block, KR Rd.,
Bangalore – 560 070.

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Applicant/Liquidator

Order delivered on: 25.05.2023

CORAM: 1. Hon'ble Justice (Retd.) T. Krishnavalli, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the Applicant : Shri Akshay J. Simha

ORDER

Per: T. Krishnavalli, Member (Judicial)

1. The instant Company Petition is filed on 04.05.2022 by Kiewit India LLP represented by Mr. Vivek Mallya, Liquidator of Kiewit India LLP ('Applicant') under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 by *inter alia* seeking a direction for dissolution of the Corporate Person/LLP, namely, Kiewit India LLP with effect from the date of order by this Adjudicating Authority.
2. **Kiewit India LLP** (hereinafter referred to as "Corporate Person/LLP") is a limited liability partnership (LLP) firm which was originally engaged in the business to overseas and monitor third party Indian service providers and suppliers to the LLP's global affiliates. The Petitioner entered into a services



agreement with Kiewit Engineering Group Inc, wherein the Petitioner Firm would be required to provide oversight activities of a third-party Indian service provider that was engaged by Kiewit Engineering Group Inc to provide engineering services on a project located in USA.

3. According to Section 2 (c) of the IBC, 2016 provisions of IBC shall apply to any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008.
4. The following averments have been made in the Petition:
 - i. It is stated that the LLP convened a meeting of Designated Partners of the LLP on 15.07.2021 wherein the Designated Partners of the LLP approved the **Declaration of Solvency** as stipulated Under Section 59(3) of the Code which was later duly signed and verified by affirmation. The Designated Partner of the LLP in compliance of Section 59(3) of the Code, have given declarations. Further, the Designated Partners have declared on Affidavits dated 15.07.2021 that they have made a full enquiry into the affairs of the LLP, and have formed the opinion that this LLP will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation within a period of 6 months from the commencement of the liquidation and the LLP is not being liquidated to defraud any person, and has not committed any default.
 - ii. The LLP passed a **Resolution to voluntarily liquidate the LLP** on 15.07.2021 and appoint Mr. Vivek Mallya, Insolvency Professional, holding registration IBBI Regn No. IBBI/IPA-001/IP-P00553/2017-2018/10983 to act as a Liquidator for the same.
 - iii. It is also stated that the intimation regarding commencement of Voluntary Liquidation Process was given to IBBI for their information and perusal. The publication of Public announcement was also duly notified to the IBBI for publication on the website on 20.07.2021.



- iv. The audited financial statement of the LLP for the year 2019-2020 and 2020-2021 along with the Auditor's Report has been filed by the Petitioner.
- v. The commencement of Liquidation and appointment of Liquidator was intimated to the ROC on 22.07.2021 (for submission of documents).
- vi. **As per Section 59(3)(b)(ii) of the IBC, 2016** - In this regard, the Petitioner submits that as on the voluntary liquidation commencement date the Petitioner had no assets except the bank. The bank balance (only asset) has been distributed in the manner prescribed.
- vii. **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 Indian Express", English Newspaper and "The Samyukta Karnataka", Kannada Newspaper on 16.07.2021 seeking submission of the claim by Stakeholders on or before 15.08.2021.
- viii. **List of stakeholders (Regulation 30 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The last date of submission of claims, if any, was 15.08.2021. The Liquidator had not received any claims up to 15.08.2021.
- ix. **Preliminary Report, (Regulation 9 (1) of Chapter IV of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Liquidator submitted the preliminary report to the LLP on 20.08.2021.
- x. **Opening of Bank Account (Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Bank account was opened with HSBC Bank, Bangalore and the said account was closed on 18.04.2022.
- xi. **As per provisions of Section 178 of Income Tax Act, 1961** - The Liquidator has issued a letter dated 22.07.2021 to the Income Tax Officer intimating the initiation of the voluntary winding-up of the Petitioner Firm in accordance with the provisions of the IBC and its allied rules and regulations. In this regard, the Petitioner has filed the circular issued by



the IBBI vide No.IBBI/LIQ/45/2021 dated 15.11.2021. It is clarified that as per the provisions of the Code and the Regulations read with Section 178 of the Income Tax Act, 1961, an Insolvency Professional handling voluntary liquidation process is not required to seek any NOC/NDC form the Income Tax Department as part of compliance in the said process.

- xii. **Distribution of Assets - (Regarding Section 59 (6) r/w Section 53 and r/w Regulation 31 to 35)** - The Petitioner as on the voluntary liquidation commencement date had no assets except the bank balance. The bank balance (only asset) has been distributed in the prescribed manner.
- xiii. **Final Report - (Regulations 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 18.04.2022 along with the Form-H (Compliance Certificate). In connection with the accounts of the liquidation, the CA Certificate showing receipts and payments for the period July 15, 2021 to April 13, 2022 is given hereunder:

Statement of receipts and payments for the period Jul 15, 2021 to April 13, 2022 are as follows:

Date	Receipts	Amounts (INR)	Date	Payments	Amount (INR)
15.07.2021	Opening Balance in Bank Account	21,56,240	28.07.2021	Payment to Statutory Auditor (YE March 2021 Audit Related - Payable recorded prior to LCD)	1,35,000
10.11.2021	GST Refunds	10,42,992	02.08.2021	TDS Payment - Section 194J	15,000
18.12.2021	GST Refunds	15,86,400	03.08.2021	Payment towards Vendor GST Dues	1,41,780
			29.09.2021	Liquidation Costs (including Liquidator Fees, Public Announcements, GST etc.)	2,16,058



			29.09.2021	Liquidation Costs - Fees and GST	1,62,250
				TDS on Liquidation Costs	(32,060)
			06.10.2021	TDS and Interest thereon	33,988
			19.10.2021	Regus Business - RO Rent and Expenses	6,213
			28.10.2021	Income tax Payment	18,660
			03.03.2022	Payment to Lawyer - Mr. Sridhar G	1,37,250
			04.03.2022	Payment to CA Firm for Form 3CEB Certifications	17,995
			04.03.2022	Payment to CA Firm for R&P Clarifications	37,800
			09.03.2022	Liquidation Fees Paid	2,98,080
			09.03.2022	TDS Remittances	73,800
			07.04.2022	Bank Charges & GST	1,750
			07.04.2022	Closing Balance remitted to Partner Kiewit Intl Group Inc.	35,22,068
Total		47,85,632	Total		47,85,632

- xiv. The final report of the Liquidating LLP was submitted with the ROC and IBBI on 19.04.2022 and 18.04.2022.
5. Heard Shri Akshay J. Simha, learned Counsel for the Applicant. We have carefully perused the pleadings of the party and extant provisions of the Code, and the Regulations made thereunder.



6. The Adjudicating Authority *vide* order dated 18.07.2022 directed the Liquidator as under:

“The learned Counsel for the Petitioner is directed to file the Audited Financial Statement for the year 2019-2020 & 2020-2021 as per Section 59(3)(b)(i) of the IBC, 2016; a report of the valuation of the assets of the Company as per Section 59(3)(b)(ii) of the IBC, 2016; Special Resolution as per Section 59(3)(c)(i) of the IBC, 2016 and proof of intimation of voluntary liquidation process of the Corporate Debtor to the IBBI as per Regulation 14(3)(c) of IBBI (Voluntary Liquidation Process) Regulations, 2017.”

7. In compliance to the above, the Liquidator has filed the requisite documents, namely, audited Financial Statement for the years 2019-2020 & 2020-2021, Resolution by the Partners of the Corporate Debtor/LLP and proof of intimation of voluntary liquidation process of the Corporate Debtor/LLP to the IBBI *vide* diary no.3697 dated 02.09.2022 and the same are on record. Regarding the report of the valuation of the assets of the Company/LLP, it is submitted that there are no assets of the Petitioner Firm except the Bank Balance of the Company and in such circumstances, there is no requirement for the same.
8. Subsequently, *vide* order dated 17.02.2022, the Liquidator was directed to file list of Stakeholders and also the details in respect of the claims received from Stakeholders well before the next date of hearing.
9. Pursuant to the above, the Liquidator has filed synopsis *vide* diary no.1638 dated 21.03.2023, wherein as regards the list of Stakeholders, it is stated that no claims has been received from any of the Stakeholders within the prescribed period or till the date of filing the Petition.
10. According to the above discussion, the affairs of the LLP 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 IBC, 2016 r/w IBBI (Voluntary Liquidation Process) Regulations, 2017, have been made within twelve months from the date of commencement of the liquidation proceedings is completed. Hence, we are of the considered opinion that the LLP, through its Liquidator, has been voluntarily liquidated.



11. In view of the foregoing **Kiewit India LLP**, the LLP is hereby dissolved with effect from the date of the present order. A copy of this order be filed with the ROC within the fourteen days.
12. The Petition **C.P.(IB)No.109/BB/2022** is accordingly allowed in the above terms.

Sd/-
(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

Sd/-
(T. KRISHNAVALLI)
MEMBER (JUDICIAL)