

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

CP(IB) 382/NCLT/AHM/2020

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 30.03.2021**

Name of the Company: Bhupendra Singh Narayan Singh Rajput
Liquidator of Kalpavruksha Finserve Pvt
Ltd
V/s
ROC Gujarat

Section 59 r.w 38 of IBC, 2016.

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.				
2.				

ORDER

Mr. Yuvraj Thakore, Advocate, for the applicant is present.

1. The present Company Petition is filed under Section 59 of the Insolvency and Bankruptcy Code, 2016, by the Liquidator, Mr. Bhupendra Singh Narayan Singh Rajput, on behalf of the Applicant Company "Kalpavruksha Finservice Private Limited", with following prayers:

- a) That the Applicant Company be dissolved as per the provisions of the Insolvency & Bankruptcy Code, 2016 and the Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 by and under the orders and directions of this Tribunal.
- b) For such further and other reliefs as in the nature and circumstances of this case this Tribunal may deem fit and proper.

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2. Brief facts raising to the present Company Petition and are feel necessary for disposal of the same are narrated here under;

2.1 The Applicant Company, i.e., M/s. Kalpavruksha Finserve Private Limited is a company, incorporated under the provisions of the Companies Act, 2013, having CIN No. U65929GJ2018PTC102403 and its Registered Office is situated at 10, Shyamal Row House, Part-II, Satellite, Ahmedabad-380 015

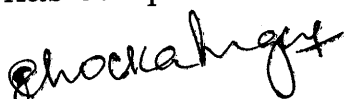
2.2 It is stated that the object of the company was to do Non-Banking Financial Company (NBFC) and does not have any other business plan and prospects. Since Reserve Bank of India (RBI) rejected the application for Certificate of Registration as NDFC, the Directors of the petitioner company proposed for liquidation of the company.

2.3 The Authorized Share Capital of the Applicant Company is Rs.2,15,00,000/- divided into 21,50,000 Equity shares of Rs.10/- each. The issued, subscribed end paid-up share capital of the Company is Rs.2,10,00,000/- divided into 21,00,000 Equity Shares of Rs.10/-

2.4 The Memorandum and Articles of Association of the company has been annexed at page No.15 of the present petition.

Extract of Master Data from MCA website is attached and marked as Annexure-A.

2.5 On perusal of the record, it is found that the applicant has complied with Section 59(3) of the IB Code, by filing





declaration signed by the Board of Directors, ^{stating} inter alia, ^{thru.} with full enquiry into the affairs of the company have been done and the company has no debts or if claimed during the liquidation process, the company will be able to pay its debts/claims in full from the proceeds of the assets to be sold in liquidation within a stipulated period. The applicant has also submitted that the Declaration of Solvency to the Board Meeting not to defraud the Creditors, Government or any other company or any other person, vide its Declaration dated 21.06.2019 (Annexure-C).

2.6 The applicant company also filed an Affidavit of Concurrence in Declaration of Solvency, whereby affirmed that the Director of the applicant company had placed before the Board the Financial Statement for the year ended on 20.06.2019 and further stated that the company is solvent and it will pay its outstanding, if any, to the creditors, Government dues, etc. as reflected from page no.45, 48 and 51 of the application.

2.7 That the Board of Directors of the company as per Section 59 (3) (c) of the Insolvency and Bankruptcy Code, 2016, convened an Extra Ordinary General Meeting on 18th July, 2019 to pass a special resolution to voluntarily liquidate the company and to appoint Mr. Bhupendra Singh Narayan Singh Rajput (Registration No. IBBI / IPA-001/IP-P00397/2017-18/10715),

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Professional to act as the Liquidator. Minutes of the Board Meeting is annexed at page no.54 of the application and Minutes of the Extra Ordinary General Meeting is annexed at page no. 89 of the application. ✓

2.8 That in compliance with Regulation 14 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the liquidator of the applicant company published a public announcement in Form A of Schedule I in "Financial Express" (English) on 23.07.2019 and in "Financial Express" (Gujarati) Ahmedabad on 23.07.2019 inviting claims of stakeholders, if any, to submit their claim within 30 days from the date of commencement of liquidation. A copy of the Public announcement has also been sent to the Insolvency and Bankruptcy Board of India (IBBI) with request to place it on its website and the same was published on the website of IBBI. A copy of newspaper publication as well as copy of email sent to IBBI and screenshot of the website of IBBI depicting the publication of the aforesaid public announcement have been annexed with the instant petition as Annexure-F and Annexure-G respectively.

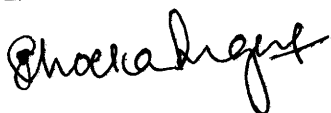
2.9 That as per the provision of Section 59(4) of the Insolvency and Bankruptcy Code, 2016, the applicant company duly notified the Registrar of Companies about the voluntarily liquidation and appointment of liquidator

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in Form MGT 14 and Form GNL 2 and the same was approved and taken into record by Registrar of Companies, Ahmedabad. A copy of Form MGT-14 and Form GNL-2 has been annexed with the petition as Annexure-H.

- 2.10 That in compliance of the Regulation 8(1) (a) and 9 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations 2017 the liquidator submitted a Preliminary Report dated 26.08.2019 to the Shareholders of the applicant company on 26.08.2019. A copy of Preliminary Report and its acknowledgement received from the company has been annexed with the petition as Annexure-I
- 2.11 That the applicant company has received two (2) claims amounting to Rs.4,50,000 (Rupees Four Lakhs Fifty Thousand only) from employees of the company. Further, there are no other stakeholders than Equity Shareholders.
- 2.12 That the liquidator informed to ITO (Income Tax Officer) informing about the voluntary liquidation of the company as well as his appointment as liquidator of the company .
- 2.13 That in compliance with Regulation 34 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the liquidator opened a bank account in the name of 'Kalpavruksha Finserve Private Limited, with Central Bank of India, Ahmedabad, on 28.08.2019 for realization of money and payment to the





members.

- 2.14 That in compliance with the provisions of Regulation 35 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 and Section 53 the Insolvency and Bankruptcy Code, 2016, the liquidator distributed the proceeds from the realization of assets (Bank Balance Liquid Assets only) involved in the process of Voluntary Liquidation to the stakeholders which were transferred from the aforesaid liquidation account.
- 2.15 The applicant liquidator has further informed that having made necessary payment to the Members of the company, the liquidator has closed down the liquidation account. In proof thereof, a copy of the Bank Statement showing Nil Balance has also been annexed with the present main petition.
- 2.16 That in compliance with the provision of Regulation 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the liquidator prepared a final report and submitted that same to the Registrar of Companies on E-Form GNL-2 on 23.10.2010 and sent to the Insolvency and Bankruptcy Board of India through Email dated 28.10.2020.
3. On the basis of stated grounds and reasons, the company, through the liquidator, has prayed for an order from this

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Adjudicating Authority for Dissolution of the applicant company and making a declaration to this effect.

4. Heard learned lawyer appearing on behalf of the liquidator / the applicant company and by going through the contents of present petition, we duly considered the merits thereof, in the light of the statutory provisions of Section 59 of the IBC read with other relevant Regulations. The relevant provisions of Section 59, as meant for Voluntary Liquidation of the company. For the sake of convenience, are being reproduced hereinbelow;

59. Voluntary liquidation of corporate persons

(1) A corporate person who intends to liquidate itself voluntarily and has not committed any default may initiate voluntary liquidation proceedings under the provisions of this Chapter.

(2) The voluntary liquidation of a corporate person under sub-section

(1) shall meet such conditions and procedural requirements as may be specified by the Board.

(3) Without prejudice to sub-section (2), voluntary liquidation proceedings of a corporate person registered as a company shall meet the following conditions, namely:—

(a) a declaration from majority of the directors of the company verified by an affidavit stating that—

(i) they have made a full inquiry into the affairs of the company and they have formed an opinion that either the company has no debt or that it will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation; and

(ii) the company is not being liquidated to defraud any person;

(b) the declaration under sub-clause (a) shall be accompanied with the following documents, namely:—

(i) audited financial statements and record of business operations of the company for the previous two years or for the period since its incorporation, whichever is later;

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(ii) a report of the valuation of the assets of the company, if any prepared by a registered valuer;

(c) within four weeks of a declaration under sub-clause (a), there shall be—

(i) a special resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily and appointing an insolvency professional to act as the liquidator; or

(ii) a resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily as a result of expiry of the period of its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company shall be dissolved, as the case may be and appointing an insolvency professional to act as the liquidator:

Provided that the company owes any debt to any person, creditors representing two-thirds in value of the debt of the company shall approve the resolution passed under sub-clause (c) within seven days of such resolution.

(4) The company shall notify the Registrar of Companies and the Board about the resolution under sub-section (3) to liquidate the company within seven days of such resolution or the subsequent approval by the creditors, as the case may be.

(5) Subject to approval of the creditors under sub-section (3), the voluntary liquidation proceedings in respect of a company shall be deemed to have commenced from the date of passing of the resolution under sub-clause (c) of sub-section (3).

(6) The provisions of sections 35 to 53 of Chapter III and Chapter VII shall apply to voluntary liquidation proceedings for corporate persons with such modifications as may be necessary.

(7) Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate person.

(8) The Adjudicating Authority shall on an application filed by the liquidator under sub-section (7), pass an order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(9) A copy of an order under sub-section (8) shall within fourteen days from the date of such order, be forwarded to the authority with which the corporate person is registered.

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5. By perusal of the material available on record, shows that the Board of Directors of the Company has taken a conscious decision for closing down the company, because the company was incorporated with the object of Non-Banking Financial Company (NBFC) and applied to Reserve Bank of India (RBI) for Certificate of Registration as NBFC, however the said application has been rejected and returned by RBI. Since the company failed to register as Non-Banking Financial Company, it could not do NBFC activities and the company does not have any other business plan and prospects. Thus, the Board of Directors of the company unanimously have proposed to liquidate the company through invoking the provisions of voluntary liquidation under Section 59 of the IBC.
6. It has been clarified in the present petition that there are no creditors and the liquidator has made payment to all claims received and, therefore, no one will be prejudiced or suffer a loss if the company is dissolved. The company has duly passed the requisite Special Resolution in its **Extra Ordinary General Meeting (EOGM) on 18th July 2019** by confirming the decision of its Board of Directors and proposing for its Voluntary Liquidation. The EOGM also passed a further resolution to appoint a Liquidator for such purposes, by appointing Mr. Bhupendra Singh Narayan Singh Rajput, having Registration No. IBBI/IPA-001/IP-P00397/2017-18/10715 the Insolvency Professional as Liquidator of the company.
7. A perusal of the record of the case, it may be 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 petition and, thus, the liquidator has prayed for an order from this Tribunal to dissolve the applicant company.

8. Since there is no objection received from any angle opposing the proposed voluntary liquidation/dissolution of the company either from the side of shareholders or from creditors nor any adverse comment is received from public at large against such liquidation/dissolution, despite a public announcement was made by the liquidator in the website of the Insolvency and Bankruptcy Board of India (IBBI). It is also evident that the proposed liquidation is duly communicated to the Registrar of Companies, Gujarat, as per Form MGT-14 and Form GNL-2 that same is also reported to have been approved.
9. It is to be mention herein that notice was issued to the Registrar of Companies (RoC), Gujarat, vide order dated 08.12.2020 through Registry, in compliance of the order dated 04.12.2020 same was delivered on 14.12.2020 as per Track Report. Hence, service to RoC is complete. However, no representation is received from the side of the RoC.
10. That apart, as per record of the present case. It may be seen that the company is not found involved in such kind of business activities, which are detrimental to the interest of public at large. Further, it is not the case that the proposed

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liquidation may affect adversely to its shareholders / members or contrary to the provision of law.

11. The Liquidator has filed copies of paper publication as well as copy of paper announcement in Form-A. The Liquidator is found to be have complied with the statutory provision to complete the liquidation process by taking necessary steps as it is evident that he duly opened an account in the name of Corporate Person with Central Bank of India, Ahmedabad, Account No.3769445037, for realization and payment to the members. He has further intimated to the Income Tax Department regarding the voluntary liquidation of the company as well as his appointment as the liquidator.
12. The Liquidator has annexed copy of preliminary report (as Annexure-I), copy of Final Report, Form GNL-2 along with copy of receipt and email sent to IBBI (as Annexure-I) with the present application.
13. By taking into consideration, the above stated facts and circumstances, the present application deserves to be allowed for the proposed Liquidation/Dissolution of the Corporate Person.
14. 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 Corporate Person (Applicant Company) **"M/s. Kalpavruksha Finserve Private Limited"** shall stand dissolved with effect from **30.03.2021**.





15. The Liquidator is directed to communicate a copy of this order to the respondent i.e. Registrar of Companies (Gujarat), wherein the registered office of the company was situated. Further, a copy of this order should also be communicated to the IBBI, New Delhi and other statutory authorities, for information. Such Communication should be made within the stipulated period of fourteen (14) days from the date of receipt of an authentic copy of this order.
16. The Registry is directed to communicate a copy of this order to the Registrar of Companies, Gujarat as well as to the Insolvency and Bankruptcy Board of India (IBBI).
17. Thus, the present Company Petition is allowed and stands disposed of.



Chockalingam Thirunavukkarasu
Member (Technical)



Manorama Kumari
Member (Judicial)

Dated this the 30th day of March, 2021.

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