

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-V

(IB)-486/ND/2021

Section: Under Section 59 of the Insolvency and Bankruptcy Code, Read with Regulations of IBBI (Voluntary Liquidation Process) Regulations, 2017.

IN THE MATTER OF:

M/S BSM India Private Limited
503, Chiranjiv Tower,
43, Nehru Place,
New Delhi-110019

SECTION: 59 of IBC, 2016

Order Delivered on: 17 .09.2021

CORAM:

SHRI P.S.N. PRASAD, MEMBER (JUDICIAL)

SHRI K.K. VOHRA, MEMBER (TECHNICAL)

Present- Adv. Ananya Madhusudan, Adv. Kaushiki and
Liquidator Amresh Kumar Sood



ORDER

Per P. S. N. Prasad (Member Judicial)

1. This application is filed by the Voluntary Liquidator under section 59 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (IBBI Regulations) seeking dissolution of M/S BSM India Private Limited (herein referred to as the "Company").

2. The aforesaid Company is a private limited company incorporated on 29.05.2013 under the provisions of Companies Act, 1956 having CIN No. U74140DL2013FTC253008. The registered office of the Company is presently situated at BSM India Private Limited, 503, Chiranjiv Tower, 43, Nehru Place, New Delhi-110019 which is within the territorial jurisdiction of this Tribunal. The object of the Company is to act as management consultants, managers, managing directors, directors, financial controllers, consultants, supervisors and agents of other companies or undertakings.



3. The following statements have been made in the petition:-

- a. In a meeting of the Board convened on 20.01.2020, a resolution was passed for voluntary liquidation of the Company in terms of Section 59 of the Code read with the IBBI Regulations and for issuing a notice of Extra Ordinary General Meeting of the Members of BSM India Private Limited stating that the meeting will be held on 17.02.2020 at 11:00 am.
- b. Pursuant to the provisions of Section 59 and other applicable provisions of the Code, the Extra-ordinary General Meeting (EOGM) of the Members of said Company was held on 17.02.2020, special resolution was passed whereby Mr. Amresh Kumar Sood bearing registration no. IBBI/IPA001/IP-P01165/2018-19/11836, Insolvency Professional was appointed as the Voluntary Liquidator of the Company.
- c. As per the requirement of Regulation 14 of the IBBI Regulations, the voluntary liquidator published a notification in the newspaper, namely, "*Financial Express*" in English and "*Jansatta*" in Hindi on 21.02.2020 respectively, seeking



submission of the claim by the stakeholders, if any, within 30 days for the date of commencement of Liquidation i.e. 17.02.2020. In terms of the Regulation 14(3)(c) of the IBBI Regulations, the Public Announcement was notified to IBBI on 22.02.2020 for publishing it on the website.

- d. As per the requirement of Section 59 of the Code, a Declaration of Solvency was signed by the Directors of the Company. The declaration along with audited financial statements and record of business operations of the Company for the previous two years was filed with the Registrar of Companies, New Delhi in form GNL-2 vide SRN R33805573 dated 24.02.2020.
- e. That the commencement of liquidation and appointment of Liquidator was submitted to the Registrar of Companies, New Delhi in form MGT-14 and form GNL-2 vide SRN R33806316 on 24.02.2020.
- f. That the Income Tax Department was intimated on 26.02.2020 regarding initiation of Voluntary Liquidation of the Company



and seeking its No-Objection Certificate. That a No-Objection Certificate dated 03.12.2020 was received from the Income Tax Department.

- g. That as required under the regulations and as per the ICICI Bank rules, the Liquidator completed the process of changing the name of the existing Bank account of the Company to “*BSM India Private Limited in Voluntary Liquidation*” with ICICI Bank for realization and payment to the Creditors and Members.
- h. That the Liquidator had received claims form from the Operational Creditors on 17.03.2020. Based on verification of books and claim received from the Creditors of the Company, the Liquidator made payments to the Creditors.
- i. In terms of Regulation 9 of the IBBI Regulations, the voluntary liquidator submitted a preliminary report to the company on 02.04.2020.
- j. That the Liquidator intimated the commencement of Liquidation to the Registrar of Companies and requested them



to change the status of the Company pursuant to Special Resolution passed in EOGM for voluntary liquidation on 26.02.2020.

- k. That the Liquidator filed an application dated 24.06.2020 with the GST Authorities for surrender of GST Registration of the Company and on 27.07.2020, the GST Registration of the Company was cancelled.
- l. That on 30.07.2020, the Form GSTR-10, which is the Final Return, has been filed where neither any demand is pending to be paid nor any refund to be received by the Company.
- m. Further, in terms of Regulation 38 of the IBBI Regulations, the voluntary liquidator submitted the final report dated 09.06.2021 to the IBBI and to the RoC in E-Form GNL-2 vide SRN T22421978 dated 11.06.2021.
- n. That after the payment to Creditors and Members of the Company, the Liquidator has closed the Liquidation Account.



o. That it is submitted that there was a delay in distribution of assets among stakeholders on account of delays caused by the Covid-19 Pandemic and obtaining NOC from various departments and such acts were beyond the control of the Liquidator. That in relation to the above, the Hon'ble Supreme Court vide its order dated 23rd March, 2020 in '*Re: Cognizance for Extension of Limitation*', took Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Pandemic and held that "*a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Specified Laws whether condonable or not shall stand w.e.f. 15th March, 2020 till further order/s to be passed by this Court in present proceedings*". That the same was further reiterated by the Supreme Court vide its order dated 27th April, 2021 in '*Re: Cognizance for Extension of Limitation*', where the Hon'ble Supreme Court held that "*We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial*

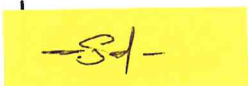
proceedings, whether condonable or not, shall stand extended till further orders.”

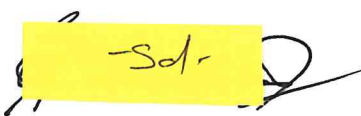
4. During the course of arguments, it was observed that the Special Resolution was passed by members on 17.02.2020 after a gap of 101 days from Declaration by Directors (08.11.2019) as against requirement of 28 days as per Section 59 (3) (c) of the Code. After special resolution, petition with NCLT was filed after 17 months as against requirement of 12 months. It was orally submitted by the Counsel that the reasons for delay in conducting the liquidation process and the statutory compliance U/S 59 (3) (c) was neither intentional nor deliberate. Accordingly, the delay is condoned in completing the process of liquidation.
5. In view of the foregoing steps taken and the satisfaction accorded by the voluntary liquidator by way of the present application, there is no legal impediment in allowing the prayer of the applicant. Accordingly, we hereby allow the Prayer of Liquidator to dissolve the Company U/S 59 of the Code and the said company is hereby dissolved with effect from the date of the present order. The Liquidator is directed to preserve a physical or



Electronic copy of the reports, registers, books of account referred to in Regulation 8 and 10 for at least eight years after the dissolution of the corporate person, either with himself or with an information utility.

6. A copy of this order be filed with the RoC within the statutory period as per the applicable provisions.
7. File be consigned to the Record Room.


K. K. VOHRA
Member (T)


P. S. N. PRASAD
Member (J)

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