



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT – IV

ITEM No.502
IB/114/ND/2023

IN THE MATTER OF:

ELEMENTION HEALTH & SPORT PRIVATE LIMITED

...

Applicant

Order under Section 59 of IBC, 2016.

Order delivered on 27.09.2023

Coram:

Mr. P.S.N. PRASAD,
HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

Order pronounced in open Court vide separate sheets.

IB/114/ND/2023 stands allowed.

Sd/-

DR. BINOD KUMAR SINHA,
MEMBER (TECHNICAL)

Sd/-

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



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV
COMPANY PETITION NO. 114 OF 2023**

Section 59 of Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Code of India (Voluntary Liquidation Process) Regulations, 2017

IN THE MATTER OF:

**ELEMENTION HEALTH & SPORT PRIVATE LIMITED
(IN VOLUNTARY LIQUIDATION)**

...CORPORATE PERSON

IN THE MATTER OF:

MR. VISHWAJEET GUPTA

...LIQUIDATOR-APPLICANT

Order Delivered on: 27.09.2023

CORAM:

**SHRI P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)
DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Liquidator : Mr. Prateek Saxena, Adv.

ORDER

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

1. The Voluntary Liquidation application has been filed by the Liquidator Mr. Vishwajeet Gupta on behalf of M/s Elemention Health & Sport Private Limited ("Applicant) bearing CIN: U74899D12006PTC144457 under Section 59 of the Insolvency and Bankruptcy Code, 2016 ('Code') read with the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 seeking the following prayer(s):-
 - a. Pass the order of Dissolution of the Corporate Person in accordance with Section 59(8) of IBC, 2016.
 - b. Issue such necessary orders as may be deemed fit in the matter.



2. The brief facts, giving rise to filing of the instant Application, which are just and necessary for adjudication, are narrated hereunder: -


- a. The Applicant i.e., M/s Elemention Health & Sport Private Limited is a private limited company incorporated on 04.01.2006 under the provisions of the Companies Act, 1956 having CIN: U74899DL2006PTC144457 and registered office situated at 23, Anand Lok, New Delhi-110029.
- b. That the company was set up to establish, own, buy, sell, manage, improve, maintain and operate, take on lease or promote the establishment of health club, fitness clinics in India and elsewhere.
- c. That the Board of Directors of Corporate Person in their meeting held on 03.10.2022 made a declaration of solvency in consonance with Section 59(3)(a) alongwith audited financial statements for the financial year 2020-21 as on 31.03.2021 and 2021-22 as on 31.03.2022, audited provisional financial statements as on 18.09.2022 and record of business operations in the form of Report of board of directors for financial years 2020-21 and 2021-22 is annexed with the petition.
- d. The Liquidator submits that in the Extra Ordinary General Meeting held on 03.10.2022 had passed a resolution for voluntary liquidation of the company in terms of section 59, wherein the members / shareholders of the Corporate Person passed a Special Resolution with unanimous consent to liquidate the Corporate Person and for appointing Mr. Vishwajeet Gupta,



Insolvency Professional having IBBI Registration No. IBBI/IPA-002/IP-N00215/2017-18/10667 as the Liquidator of the Company. The same has been notified to Registrar of Companies NCT of Delhi and Haryana in Form MGT-14 vide SRN No. F27708122 & GNL-2 vide SRN No. F28099398 and was also sent to the IBBI on 06.10.2022.

- e. The Liquidator submits that as per Regulation 14 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, public announcement for Voluntary Liquidation of the Corporate Person in Form A was published in the newspapers namely Financial Express (English) and Jansatta (Hindi) on 05.10.2022, inviting claims of stakeholders, within 30 days from the liquidation commencement date. The same was also sent to the IBBI on 06.10.2022.
- f. That in terms of Regulation 30 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the Liquidator had prepared a list of stakeholders as on 04.11.2022 based on claims submitted and accepted as per the regulations. However, the Liquidator has not received any claim from any of the stakeholder.
- g. That the Liquidator vide letter dated 07.10.2022 intimated the Income Tax Department regarding voluntary liquidation of the corporate person and filing of their claims, if any. Thereafter, the Income Tax Department issued no dues and no objection certificate on 22.11.2022. The same is reproduced as under:




**Office Of The
Dy. Commissioner of Income Tax
Circle- 7(1), Room No.404, 4th Floor,
CR Building, IP Estate, Delhi - 110002.
Email: delhi.dcit7.1@incometax.gov.in, Phone: 011-23705627**

F.No. DCIT/Circle-7(1)/Misc/2022-23/ 357 Date: 22.11.2022

To


Sh. Vishwajeet Gupta
Voluntary Liquidator
Reg No. IBBI/IPA-002/IP-N00215/2017-18/10667

Sir,


Subject: 'No Due certificate' in case of M/s Elemention Health & Sport private Ltd (PAN-AAFCA5244E)-reg.

Please refer to your letter dated 07.10.2022 regarding Voluntary Liquidation of the above mentioned assessee.

2. In this regard, it is stated that as per information available on ITD/ITBA/CPC portal of the department, there is no outstanding demand and no proceeding of the Department is pending against the assessee mentioned above. Therefore, the Department has no objection to the scheme of voluntary liquidation of M/s Elemention Health & Sport private Ltd(PAN-AAFCA5244E).


(Garima)
Dy. Commissioner of Income Tax,
New Delhi
GARIMA
Dy. Commissioner of Income Tax
Circle-7(1), Room No. 404,
C.R. Building, New Delhi-110002

Copy to :- 1. The assessee


Dy. Commissioner of Income Tax,
New Delhi

- h. That the Liquidator vide email dated 06.10.2022 and letter dated 07.10.2022 intimated the Bankers of the Corporate Person i.e. HDFC Bank Limited, Ground Floor, Shop No. 30 and 31, DLF Tower A, Jasola Vihar, New Delhi-110025 regarding the initiation of voluntary liquidation proceedings and his appointment as Liquidator of the Corporate Person. The Liquidator also instructed the bank to debit freeze the transactions in the said account. The same is on record.
- i. That in terms of Regulation 9 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator had prepared and submitted the Preliminary Report to the Corporate Person via



speed post on 14.11.2022 i.e, within 43 days respectively from the liquidation commencement date.

- j. The applicant submits that in compliance of Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator had opened a bank account in the name of Elemention Health & Sport Private Limited in Voluntary Liquidation with the ICICI Bank, Sector 20, Panchkula, Haryana on 18.11.2022.
- k. That the funds of Rs. 1,87,033.22/- were lying in the HDFC Bank as on liquidation commencement date i.e., 03.10.2022. Since, HDFC Bank deducted statement charges of Rs. 118/- on 04.10.2022, the bank was instructed to issue Demand Draft of the balance amount of Rs. 1,86,915.22/- which was duly deposited with ICICI Bank in the liquidation account on 21.11.2022.
- l. That on the request of the liquidator, the HDFC, Jasola Vihar, New Delhi closed the Bank account on 15.11.2022 and accordingly issued bank statement on 24.11.2022 containing closure of the bank account. The same is on record.
- m. That the Liquidator wound up the affairs of the business of the Corporate Person and distributed the proceeds of liquidation of the corporate person in accordance with Section 53 of the IBC, 2016. The details of this distribution are enclosed hereunder: -



A/c. Ledger Inquiry

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A/c. ID	093505001473 INR 0935 ELEMENTION HEALTH & SPORT PRIVATE LIMITED IN VOLUNTARY LIQUIDATION			Help
A/c. Status	ACTIVE			
A/c. Open Date	18-11-2022	A/c. Status Date	18-11-2022	
GL Subhead	05051	A/c. Close Date	23-12-2022	
Opening Bal.	INR	A/c. Type	CUSTOMER ACCOUNT	
Closing Bal.	INR	Available Amt.	INR	0.00 CR.
Funds in Clg.	INR	Effective Available Amt.	INR	0.00 CR.
		Float Bal.	INR	0.00 DR.

Tran. Date	Value Date	Instr. No.	Particulars	CCY	Debit Amt.	Credit Amt.	Bal.
21-11-2022	21-11-2022		CLG/PO/031371/HDF/15.11.2022	INR		1,86,915.22	1,86,915.22CR.
21-12-2022	21-12-2022	*****	CLG/VISHAWJEET GUPTA/HDF	INR	90,000.00		96,915.22CR.
21-12-2022	21-12-2022	*****	CLG/VISHAWJEET GUPTA/HDF	INR	51,915.22		45,000.00CR.
22-12-2022	22-12-2022	*****	CLG/ANKUSH THAKUR/PNB	INR	45,000.00		0.00CR.

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- n. That the Liquidator vide letter dated 23.12.2022 applied the bank to close the Liquidation Account in the name of “Elemention Health & Sport Private Limited (In Voluntary Liquidation).
- o. That the Liquidator finalized the books of accounts of the Corporate Person (in Liquidation) and got them audited from the Auditors of Corporate Person.
- p. That as per Regulation 38 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations 2017, the Liquidator has prepared his final report as on 05.01.2023 and the same has been filed with ROC in e-form GNL-2 vide SRN No. F56148794 and also sent via email to ROC and IBBI.
3. Vide order dated 29.03.2023 passed by this Tribunal, the Learned Counsel for the Liquidator was directed to file a short affidavit on the following points:
- a. That the company has not issued guarantee or undertaken any guarantee obligation.



- b. That Company confirms that the company has surrendered or written a letter for cancellation of its PAN Number or not.
4. In compliance of order dated 29.03.2023 passed by this Tribunal, the Liquidator filed an affidavit dated 10.04.2023 confirming that the company has not issued any guarantee or undertaken any guarantee obligation; and the company has written a letter to the concerned Assessing Officer of the Income Tax Department to surrender and cancellation of Permanent Account Number (PAN) to the copy.
 5. Vide order dated 26.05.2023 passed by this Tribunal, the Ld. Counsel for the Liquidator was directed to serve a copy of Section 59 application along with its annexures as filed before the Tribunal to the ROC for filing their report.
 6. In compliance of order dated 26.05.2023 passed by this Tribunal, the Liquidator filed an affidavit dated 30.06.2023 confirming that the company has served a copy of Section 59 Application along with annexures to the ROC via email on 07.06.2023 and via speed post on 15.06.2023 which was duly received by ROC on 19.06.2023. The same is on record.
 7. In compliance of Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 compliance certificate in Form H has been filed by the Liquidator. The same is on record.
 8. 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 and, thus, the Liquidator has prayed for an order from this Adjudicating Authority to dissolve the applicant company.

9. Further, no adverse comments have been received from any statutory authority or from public at large against the proposed dissolution of the Applicant Company, despite there being a public announcement by the liquidator and also updation of the same in the website of the Insolvency and Bankruptcy Board of India (IBBI). 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 and Form GNL-2 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.
10. The Liquidator had filed copies of paper 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 at page no. 163-168 of the present application.



11. The Liquidator is found to have complied with the statutory provisions to complete the liquidation process by taking necessary steps as it is evident that he had duly opened an account in the name of Corporate Person with Bank for realization and payment to the members.
12. 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.
13. By taking into consideration the application and other submissions and the documents relied upon by the applicant, the instant Application **(C.P.(IB)114/ND/2023)** stands allowed. Consequently, this Adjudicating Authority in exercise of power conferred on it under Section 59 (8) of the Insolvency and Bankruptcy Code, 2016, orders that the Applicant Company i.e., M/s. Elemention Health & Sport Private Limited having CIN: U74899DL2006PTC144457 shall stand dissolved with effect from the date of pronouncement this order.
14. 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.

15. 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.

The case file and connected papers may be consigned to the record room.

Sd/-
DR. BINOD KUMAR SINHA
MEMBER (TECHNICAL)

Sd/-
P.S.N PRASAD
MEMBER (JUDICIAL)