

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

CP No.33/Chd/Hry/2023

**Under Section 59 of the Insolvency and
Bankruptcy Code, 2016**

In the matter of :

**Fullerton Securities & Wealth Advisors Ltd.
(In voluntary Liquidation)**
having its registered office at
280, Udyog Vihar, Phase IV, Gurugram-122001
PAN: AABCF193G
CIN No. U74120HR2008PLC037606

... Petitioner

Judgment delivered on: 06.07.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

For the Petitioner: Mr. Vishav Bharti Gupta, Advocate

Per: Harnam Singh Thakur, Member (Judicial)

JUDGMENT

1. The present Company Petition has been filed by the Liquidator, Mr. Devendra Umrao, on behalf of Fullerton Securities & Wealth Advisors Ltd., under Section 59 of the Insolvency and Bankruptcy Code, 2016 (in short, The Code) seeking the relief that the Petitioner Company be dissolved as per the provisions of the Code and the Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017.

2. Brief facts giving rise to the filing of the instant Company Petition, which is just and necessary for adjudication, are narrated hereunder:-

2.1 It is submitted that the company was incorporated on 08.02.2008 and the main object of the company was to carry on the business of share and stock broking, clearing and dealing as a member of any recognized Stock Exchange

under the Securities Contracts Regulations Act, 1956. The master data, Certificate of Incorporation and Memorandum of Association, and Articles of Association of the Company are attached as Annexure-3 of the petition.

2.2 The Authorized Share Capital of the Applicant Company is Rs.25,50,000,000/- (Rupees Two Hundred and Fifty-Five Crores Only) divided into 255,000,000 equity shares of Rs.10/- each. The applicant company in its board meeting dated 24.01.2019 passed a resolution for filing the declaration of solvency for voluntary liquidation of the company in terms of Section 59(3) of the Code and read with Regulation 3 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulation, 2017 and for appointing Mr. Jiwan Saini as the Liquidator of the company in terms of Regulation 5 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulation, 2017, subject to the approval of the members in the Extra Ordinary General Meeting of the Company.

2.3 It is further submitted that the declaration of solvency made by the Directors of the company along with audited financial statements and record of business operations was filed with the concerned Registrar of Companies in Form GNL 2 vide SRN H44728459 on 13.02.2019 (Annexure-6). The company in their Extraordinary General Meeting held on 24.01.2019 passed a special resolution approving the voluntary liquidation of the company and the appointment of Mr. Jiwan Saini, Insolvency Professional, to act as Liquidator of the company. The certificate true copy of the aforesaid special resolution was filed with the Registrar of Companies in Form MGT-14 on 24.01.2019. The public announcement was made on 25.01.2019 in newspapers i.e., '*Business Standard*' in Hindi and English editions. The last date for submission of claims was fixed as 22.02.2019.

2.4 It is further averred that the preliminary report of the company was prepared on 07.03.2019 in terms of Regulation 9 of IBBI (Voluntary Liquidation Process), Regulations, 2017 which is attached and annexed as Annexure-12 of the application.

2.5 It is submitted by the liquidator that as per the provisions of Section 178 of the Income Tax Act, 1961, the Liquidator has intimated the commencement of liquidation and the appointment of the liquidator to the Income Tax Department and to the GST Department by letters dated 14.02.2019. The copy of the intimation letter dated 14.02.2019 are attached as Annexure-10 of the petition. In terms of Regulation 30 of IBBI (Voluntary Liquidation Process) Regulations, 2017, the liquidator prepared a list of stakeholders on the basis of the claim submitted and accepted which is attached as Annexure-11. In terms of Regulation 37(2) of the Regulations, the liquidator shall hold a meeting of the contributories within 15 days from the end of 12th month. Accordingly, the first meeting was held on 03.02.2020 and 2nd meeting was held on 05.02.2021. The minutes of the 1st and 2nd meeting along with the annual report are attached with the application as Annexure-13.

2.6 In the third meeting of the contributories, the resignation of liquidator Mr. Jiwan Saini has been approved, and Mr. Devendra Umrao was appointed as the new Liquidator. The liquidator has made a newspaper publication with regard to the change of liquidator and has also sent a letter to the Income Tax Office and GST department on 29.05.2021. The minutes of the 3rd contributory meeting is attached as Annexure-14 of the application. Further, the Liquidator i.e. Mr. Devendra Umrao vide letter dated 29.05.2021 followed by e-form MGT-14 filed by the liquidator on 07.06.2021 vide SRN T21644067 intimated the Registrar of the Company regarding the change of liquidator in the company (Annexure-16). The liquidator in order to determine the Fair Value and Liquidation Value of corporate debtor has appointed

two registered valuers i.e. M/s S.K. Verma & Co. and Mr. Debashis Nanda for one class of assets i.e. Securities or Financial Assets as the corporate debtor does not have land & Building and Plant & Machinery. On 02.02.2022, the Fourth Meeting of the Contributories was convened and in compliance of Regulation 37(2) of the Insolvency & Bankruptcy Board of India (Voluntary Liquidation) Regulations, 2017, The copy of the minutes of the Fourth Meeting of the Contributories held on 02.02.2022 along with the Third Annual Status Report dated 01.02.2022 is attached with the application as Annexure-19.

2.7 The Liquidator has published a public notice in Financial Express to invite interested parties to submit their offer to purchase the securities held by the corporate debtor. The copy of the auction notice dated 19.04.2022 is attached with the application as Annexure-20. The liquidator had also sent an e-mail to each of the respective Companies whose shares were held by the Corporate Debtor, to buy back/purchase their respective shares. However, no response had been received by the liquidator from any of the Companies. Thus, in the absence of any interested buyers and in compliance with the provisions of Regulation 35(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 which inter-alia states that *"the liquidator may, with the approval of the corporate person, distribute amongst the stakeholders, an asset that cannot be readily or advantageously sold due to its peculiar nature or other special circumstances"* the Liquidator vide email dated 06.07.2022 had put up the proposal before the Contributories to sought their approval for the disposal of the securities held by the Companies (Transferor) to Mr. Salil Shatnu Fozdar (Transferee) at a value of INR 101/- (Rupee One Hundred One Only) as there are no buyers of these securities in the market and securities have NIL liquidation value as per the valuation reports obtained by the Liquidator and the said proposal was approved by the

Contributories. On 29.07.2022, the Liquidator transferred the securities held by the Corporate Debtor in favor of Mr. Salil Shatnu Fozdar (Transferee) at a value of INR 101/- (Rupee One Hundred One Only) by executing the share purchase agreement (Annexure-21).

2.8 In the 5th meeting of the contributory, the liquidator has placed 4th annual status report dated 30.01.2023 (Annexure-22). It is further submitted that all the bank accounts of the Fullerton Securities and Wealth Advisor Limited were closed on different dates and the last bank account was closed on 02.02.2023. The copies of the closure letter received from the bank are attached as Annexure-23. The liquidation account opened with the ICICI Bank at New Delhi, Connaught Place was also closed on 07.01.2023 and a copy of the closure letter is attached with the application as Annexure-22.

2.9 The liquidator has prepared the final report along with the compliance certificate in Form-H consisting of details showing the receipts and payments pertaining to the liquidation since liquidation commencement date. The liquidator has filed the final report in E-form GNL-2 with the concerned Registrars of the Companies and has also been submitted to IBBI. The copy of the challan and the final report along with the compliance report is attached as Annexure-25.

3. On the basis of the aforementioned grounds and reasons, the company, through the liquidator, has prayed for an order from this Adjudicating Authority for the dissolution of the Petitioner Company and making a declaration to this effect.

4. Notice was issued to the concerned Registrar of Companies (RoC). The affidavit of service was filed vide Diary Nos. 00592/1 dated 09.05.2023. In compliance with the above order, RoC filed its report vide Diary No.00592/4 dated 09.06.2023, whereby it has stated that no inquiry/inspection/complaint/legal action has been proceeded/pending against the concerned company. The Board has no observation against the dissolution

of the Company. It is further stated by the Assistant Registrar of Companies that the liquidator has not completed the process within the stipulated time frame, as per Regulations 37(1) IBBI (Voluntary Liquidation Process), Regulation 2017. The office unable to comment upon any compliance to be done under Regulations 37(1) IBBI (Voluntary Liquidation Process), Regulation 2017. The liquidator has filed reply vide Diary No.00592/5 dated 02.06.2023 stating that the liquidation process continued for more than 12 months and in compliance of Regulations 37(1) IBBI (Voluntary Liquidation Process), Regulation 2017, the liquidator is required a meeting of contributory of the corporate persons within fifteen days from the end of 12 months. Accordingly, there are five meetings of the contributories are held on 03.02.2020, 05.02.2021, 25.05.2021, 02.02.2022 and 03.02.2023

5. We have heard the learned counsel appearing on behalf of the Petitioner Company and, with his able assistance, have carefully gone through the contents of the present petition. We have also duly considered the merits thereof in the light of the statutory provisions of Section 59 of the Code read with other relevant Regulations. For the sake of convenience, the relevant provisions of Section 59 of the Code 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*

company by invoking the provisions of voluntary liquidation under Section 59 of the Code.

7. It has been mentioned in the petition that the Board of Directors in its meeting dated 24.01.2019 and the shareholders of the petitioner company by special resolution approved the voluntary liquidation of the company and the appointment of Sh. Jiwan Saini, Insolvency Professional, to act as Liquidator of the company on 24.01.2019. The liquidator was changed in the 3rd meeting of contributories which was held on 25.05.2021.

8. From the perusal of the record of the case, it is seen that the Liquidator has duly performed his duties and completed the necessary formalities to complete the liquidation process of the Petitioner Company, which has been averred in the present petition and, thus, the liquidator has prayed for an order from this Tribunal to dissolve the Petitioner Company.

9. Since there is no objection received from any angle opposing the proposed voluntary liquidation/dissolution of the company either from the side of the shareholders or from creditors, nor any adverse comment, have been received from the public at large against such liquidation/dissolution, 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, Haryana, as per Form MGT-14 and Form GNL-2.

10. The Registrar of Companies filed its report whereby it has stated that no inquiry/inspection/complaint/legal action has been proceeded/pending against the subject company. The IBBI filed its report vide diary No.00592/6 dated 02.06.2023 wherein it is stated that the provisions applicable to the voluntary liquidation process (as provided in the Code read with IBBI (Voluntary Liquidation Process) Regulations, 2017 do not require

submission/filing of any report by the Board before AA, on the filing of a dissolution application by the liquidator. The Board has no observation against the dissolution of the Company.

11. Apart as per record of the present case, it is seen that the company is not found involved in such kind of business activities, which are detrimental to the interest of the public at large. Further, it is not the case that the proposed liquidation may adversely affect its shareholders/members or is contrary to the provisions of the law.

12. The Liquidator had filed copies of the paper publication as well as copies of the paper announcement in Form-A. The liquidator has also attached receipt and payment account for a period from 24.01.2019 to 16.01.2023 which has been duly certified by the Gupta Goel & Company, Chartered Accountant. The Liquidator is found to have complied with the statutory provision to complete the liquidation process by taking necessary steps. The 'in voluntary liquidation' account of the company was also closed which is evident from the email issued by ICICI bank dated 12.01.2023. The Liquidator had further intimated to the Income Tax Department regarding the voluntary liquidation of the company as well as his appointment as the liquidator. It is also submitted that NOC has been received from Income Tax Department on 05.07.2021. The liquidator has made the final distribution of assets on 12.01.2023 and the liquidation process was completed on 13.01.2023. Thereafter, the liquidation account were prepared on 15.02.2023 and the accounts were audited on 14.02.2023.

13. The Liquidator has also annexed a copy of the preliminary report, a copy of the Final Report, Form GNL-2, along with a copy of the tracking report and postal receipts with the present application.

14. 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.

15. Consequently, this Adjudicating Authority, in the exercise of the power conferred to it under Section 59 (8) of the Insolvency and Bankruptcy Code, 2016, orders that the Corporate Person (Petitioner Company) Fullerton Securities & Wealth Advisors Ltd. shall stand dissolved with effect from the date of this order.

16. The Liquidator is directed to communicate a copy of this order to the respondent, i.e. concerned Registrar of Companies, wherein the registered office of the company is situated. Further, a copy of this order should also be communicated to the IBBI 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.

17. The Registry is directed to communicate a copy of this order to the Registrar of Companies, Haryana, as well as to the Insolvency and Bankruptcy Board of India (IBBI).

18. Thus, the present Company Petition is allowed and stands disposed of.

sd/-

(Subrata Kumar Dash)
Member (Technical)

July 06, 2023
SA/SD

sd/-

(Harnam Singh Thakur)
Member (Judicial)