



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

ITEM No.509
IB/163/ND/2022

IN THE MATTER OF:

SGS Enterprises India Private Limited

...

Applicant

Order under Section 59 of IBC, 2016.

Order pronounced on 16.10.2023

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/163/ND/2022 stands allowed.

Sd/-

DR. BINOD KUMAR SINHA,
MEMBER (TECHNICAL)

Sd/-

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



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI SPECIAL BENCH
COURT - IV
C.P.(IB)/163/ND/2022**

[Under section 59 of the Insolvency & Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017]

In the matter of:

SGS Enterprises India Private Limited
Through Liquidator Shri Munish Kumar Sharma

...Applicant

Order Delivered on: 16.10.2023

CORAM:

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

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

PRESENT:

For the Applicant : Adv. Mohtashim Kibriya

ORDER

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

1. This Voluntary Liquidation application has been filed by the Voluntary Liquidator Mr. Munish Kumar Sharma on behalf of M/s SGS Enterprises India Private Limited (Applicant) bearing CIN: U72900DL2001PTC111639 under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Regulation of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 ("Voluntary Liquidation Regulation") seeking the following prayer(s): -
 - a) Pass an order under section 59(8) of the Insolvency and Bankruptcy Code dissolving the Company namely SGS Enterprises India Private Limited;



- b) Pass an Order allowing destruction of old records of the Company except liquidation records; and
 - c) Pass an order as this Hon'ble Tribunal may deem just and proper, in the interest of justice.
2. The brief facts, giving rise to filing of the instant Application, which are just and necessary for adjudication, are narrated hereunder: -
- i. The Applicant i.e., M/s SGS Enterprises India Private Limited was incorporated on 11.07.2001 under the provisions of the Companies Act, 1956 having CIN: U72900DL2001PTC111639 and registered office situated at F 207, Sikka Mansion, 5, LSC, Savita Vihar, Delhi-110092.
 - ii. That the Board of Directors had passed a resolution dated 06.09.2017 wherein the Board of Directors approved the declaration as stipulated under section 59(3) of the Code which was later duly signed and verified.
 - iii. That the Directors of the company have given declaration of solvency dated 06.09.2017 and supporting affidavits, declaring that they have made full inquiry into the affairs of the company and have formed an opinion that the company will be able to pay its debts in full from proceeds of assets to be sold in voluntary liquidation and the company is not being liquidated to defraud any person. The same have been filed in form GNL-2 vide SRN G55674279 with Registrar of Companies on 10.10.2017.
 - iv. That the annual general meeting was held on 30.09.2017 wherein a special resolution was passed relating to voluntary winding up

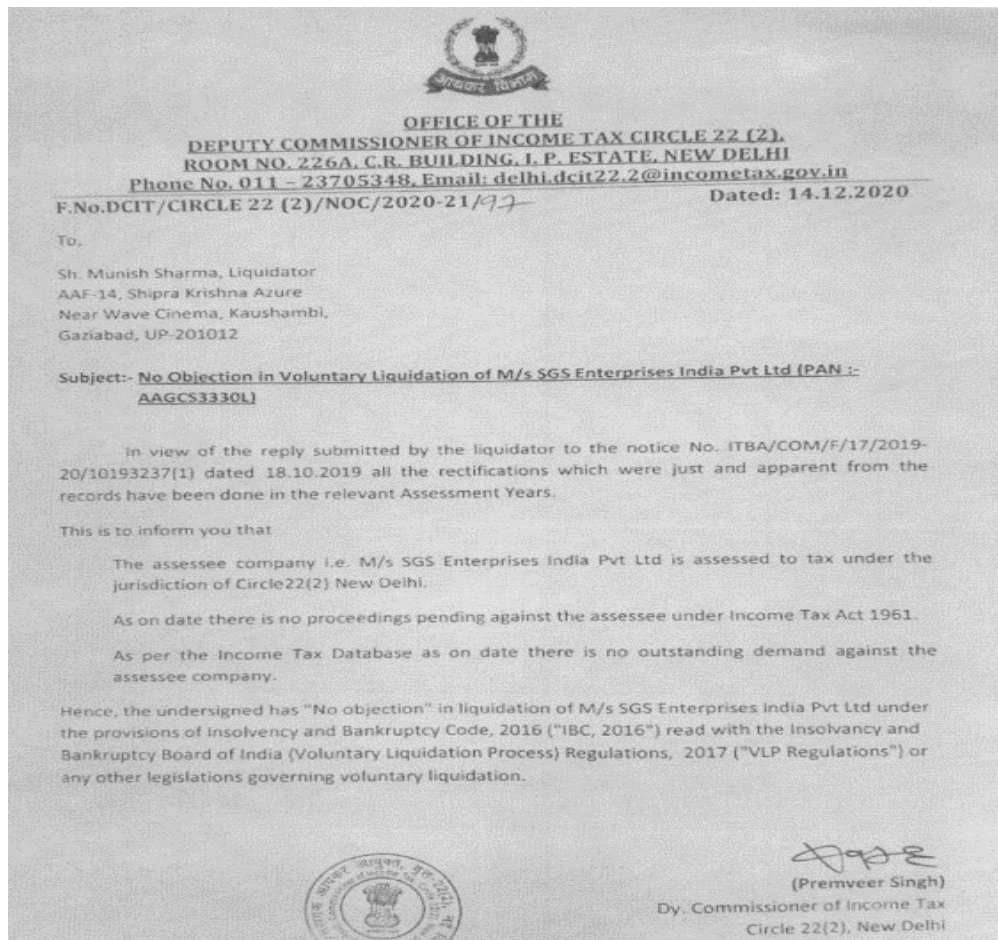


of the company and appointment of Mr. Munish Kumar Sharma, Insolvency Professional having registration number [IBBI/IPA-002/IP-N00050/2016-17/10094] to act as Liquidator along with Explanatory Statement. Further, the applicant submits that the sole creditor of the company gave his approval on 06.10.2017. The same have been filed with the Registrar of Companies in Form MGT-14 vide SRN G55674980 on 10.10.2017.

- v. The applicant has submitted the financial statements of the company for the periods ended on 31.03.2016 and 31.03.2017 which are annexed in the petition.
- vi. That the Liquidator published as per Regulation 14 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, a public announcement in Form A of Schedule I in “Financial Express” English and “Jansatta” in Hindi both dated on 10.10.2017 inviting claims of stakeholders, if any, and to submit the claim within 30 days from the date of commencement of liquidation. The applicant further submits that the copy of Public Announcement was also sent to the Insolvency and Bankruptcy Board of India for publication on its website through email on 10.10.2017.
- vii. That pursuant to public announcement one claim of one sole creditor was received by the Liquidator and the same was paid on 10.06.2019.
- viii. That the vide letter dated 10.10.2017, the company intimated the Income Tax Department under section 178 of Income Tax Act,



1961 regarding commencement of voluntary liquidation process and appointment of liquidator. The Income Tax Department filed claim for Rs. 22,12,803.00 on 18.10.2019. Claim of Income Tax Department was contested based upon the records of the Company. There were old pending cases and refunds were due from the department. Vide letter dated 14.12.2020, the department has intimated that no proceedings are pending against the Company and as per Income Tax Database there is no outstanding demand against the company. The same is extracted hereunder: -



- ix. In fact refund of Rs. 179,200 for the Assessment Year 2008-09 was received 19.01.2021 and claim of department was



withdrawn. That in compliance of the Regulation 9 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the Liquidator had prepared a preliminary report dated 13.11.2017 for the shareholders of the Company within the stipulated 45 days period from the date of commencement of Liquidation Process.

- x. That in terms of Regulation 30 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the Liquidator has prepared the list of stakeholders on 13.11.2017 and the same was intimated to the IBBI vide email dated 16.05.2018.
- xi. That the Liquidator closed the previous Bank Account of the Company maintained at Karnataka Bank Limited, Savita Vihar, New Delhi and thereafter opened a Bank Account in the name of SGS Enterprises India Private Limited Voluntary Liquidation with HDFC Bank Limited, Kaushambi, Ghaziabad, U.P and the said account was closed on 24.09.2021.
- xii. That since liquidation of company continued for more than twelve months, pursuant to Regulation 37(2)(b), the liquidator held meeting of contributories on 09.10.2018, 11.10.2019 and 23.11.2020.
- xiii. That there are five shareholders namely Mr. Jaidev, Mrs. Sumitra Gupta, Mr. Rajiv Kumar Agarwal, Mr. Vijay Agarwal and Jaidev & Sons (HUF), all of them have been duly paid off in proportion of their shareholdings. Interim distributions were made on 20th



July 2018 and 27th November 2020 and final distribution was made 24.08.2021 (one stakeholder was paid on 31.08.2021 due to spelling mistake in the cheque issued on 24.08.2021).

- xiv. That the accounts of the Liquidation were duly audited for the period from 30.09.2017 to 31.08.2021 by an independent auditor appointed by Liquidator for the purpose. The final Receipts & Payments Account as duly audited and certified by the independent auditor is extracted below:




SGS Enterprises India Private Limited
CIN: U72900DL2001PTC111639
Notes to Audited Liquidation Account for the period Sep 30, 2017 - September 24, 2021
(All amounts in Indian Rupees, except otherwise stated)

	Notes	Sep 30, 2017 - Sep 24, 2021
Bank Balance as on Sep 30, 2017		
Cash in Hands		184,685.40
Total Opening Balance (A)		77,567.00
Receipts		262,252.40
Recovery from debtors	1	43,559,611.00
Mutual Funds Proceeds	2	102,154,979.88
FD Proceeds		9,944,912.00
Income Tax Refund		187,710.00
Total receipts (B)		155,847,212.88
Payments		
Payment to Creditors		46,000.00
Payment of Professional Fee	3	118,000.00
Payment of liquidator's fee		236,000.00
Direct Tax Payment	4	3,228,946.00
Dividend Distribution Tax		8,736,000.00
Reimbursement of expenses to liquidator	5	37,518.00
Bank charges		1,257.00
Total expenses (C)		12,403,721.00
Balance available for distribution to equity shareholders (D=A+B-C)		143,705,744.28
Total amount distributed (E)		143,705,743.99
Balance (D-E)		0.29
Rounded Off		0

For Hira Jha & Co.
Chartered Accountants
FRN: 017450N


C.A. Hira Jha
Proprietor
M. No. 097069
Place: New Delhi
Date: 01-11-2021
UDIN:-21097069AAAADA2786

For and on behalf of
SGS Enterprises India Private Limited


Munish Kumar Sharma
Liquidator
Place: Ghaziabad
Date: 01-11-2021



SGS Enterprises India Private Limited

CIN: U72900DL2011PTC217272

Notes to Audited Liquidation Account for the period Sep 30, 2017 - September 24, 2021

(All amounts in Indian Rupees, except otherwise stated)

1 Recovery from Debtors	
Ozone Biotech	16,041,345.00
Pyramid Technical Services	10,643,266.00
Golden Sun Agro Foods	5,675,000.00
Supreme Global Services	11,200,000.00
Total	43,559,611.00
2 Mutual Fund Proceeds	
Birla Sunlife Mutual Fund	38,770,949.82
Birla Sunlife Mutual Fund	4,873,234.06
Franklin Templeton	11,605,564.09
IDFC Common	1,846,129.37
UTI	13,221,474.22
UTI	7,366,835.28
ICICI Prudential	10,557,485.03
KMMF	11,286,146.19
SBI MF	1,219,154.85
SBI MF	1,408,006.97
Total	102,154,979.88
3 Payment of Professional Fee	
Audit of Liquidation Account	118,000.00
	118,000.00
4 Direct Tax Payment	
Tax on Regular Assessment 2011-12	24,676.00
Self Assessment Tax 2018-19	73,480.00
Self Assessment Tax 2019-20	3,053,900.00
Tax on Regular Assessment 2019-20	13,190.00
Self Assessment Tax 2020-21	63,700.00
Total	3,228,946.00
5 Reimbursement of expenses to liquidator	
Publication of advertisement in Form A	8,316.00
Stationery, filing, bank deposit and other expenses	29,202.00
	37,518.00

For Hira Jha & Co.

Chartered Accountants

FRN: 017450N

For and on behalf of

SGS Enterprises India Private Limited

- xv. That the liquidator has prepared his final report dated 17.11.2021, and the same has been filed in e-form GNL-2 with the Registrar of Companies, NCT of Delhi & Haryana on 17.11.2021 and also sent to the Insolvency and Bankruptcy Board of India vide email dated 17.11.2021.



- xvi. That no litigation is pending against the Company in any Court of Law or Tribunal.
 - xvii. That there were no fixed assets in the company on the date of commencement of Voluntary Liquidation requiring valuation. Investment in mutual fund has been liquidated on market value. Sole creditor on the date of commencement of voluntary liquidation of the Company has been paid in full.
 - xviii. That the affairs of the Company have been duly wound-up and all the compliances have been made as per the Code and the Regulations applicable.
 - xix. That the Voluntary Liquidation process has not been initiated for defrauding any person.
3. Notice was issued to all the Statutory Authorities and Stakeholders vide this Adjudicating Authority's order dated 08.03.2022. In compliance of order dated 08.03.2022 an affidavit of service has been filed by the applicant.
 4. The Registrar of Companies in its report dated 02.08.2022 have made an observation that the Liquidation process of corporate person could not be completed within the time period of one year as prescribed under regulation 37(1) of IBBI (Voluntary Liquidation Process) Regulation, 2017.
 5. 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.

6. This Tribunal vide order dated 03.05.2023 had directed the Liquidator to submit the following documents in support of his application: -

i. A short affidavit by the Liquidator confirming the fact that whether the company has undertaken any guarantee obligations or not, if any; and

ii. A valid authorisation for assignment of the Liquidator.

7. In compliance of the order dated 03.05.2023 the Liquidator had filed an affidavit dated 15.05.2023 to submit his response to the queries: -

i. In response to the first query, the liquidator stated that the Corporate Person has not undertaken/given any type/kind of Corporate Guarantee/obligation to any entity till the date of commencement of voluntary liquidation.

ii. In response to the second query, the liquidator annexed the certificate issued by the Insolvency and Bankruptcy Board of India and valid Authorisation for Assignment (AFA).

8. Further, no adverse comments have been received from any statutory authority or from public at large against such 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 and the same are also reported to have been approved. 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.

9. 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.
10. This Tribunal vide order dated 12.09.2023 had directed the Liquidator to file Compliance Certificate in Form-H in terms of Regulation 38(3) of IBBI (Voluntary Liquidation Process) Regulations, 2017.
11. In compliance of the order dated 12.09.2023 passed by this Tribunal, the Liquidator had filed an affidavit dated 19.09.2023 in compliance of Regulation 38(3) of the Insolvency and Bankruptcy Board of India (voluntary Liquidation process) Regulations, 2017 and the Compliance Certificate in Form-H is placed on record.
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 above stated facts and circumstances, the instant Application for voluntary winding up of the applicant company (C.P.(IB)/163/ND/2022) 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. SGS Enterprises India Private Limited having CIN: U72900DL2001PTC111639 shall stand dissolved with effect from the date of pronouncement of 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.

File be consigned to the records.

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

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