

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CP (IB)/ 1299/MB-IV/2020

Emori (India) Trading Private Limited
..... Corporate Person

Mr. Himanshu Shrivastava
..... Applicant/Insolvency
Professional/Liquidator

Order pronounced on: 5.05.2021

Coram:

Mr. Rajesh Sharma	Mrs. Suchitra Kanuparthi
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances (through video conferencing)

For the Applicant : Mr. Harsh Kesharia, Advocate

Per: Suchitra Kanuparthi Member (Judicial)

ORDER

1. This is a Company Petition filed under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") by a Corporate Person, namely Emori (India) Trading Private

Limited through the Insolvency Professional, namely, Himanshu Shrivastava for dissolution of the Corporate Person through voluntary liquidation, under Section 59 of the Code, 2016 read with Rules and Regulations made thereunder. The Corporate Person has complied requisite formalities and procedure of liquidation in compliance of law and has filed this Petition for its dissolution under Section 59(7) of the Code.

2. The Corporate Person namely Emori (India) Trading Private Limited bearing CIN U74999MH2013FTC243463 was incorporated on 21.05.2013, having Registered Office at Office No. 1308, BL No. A1, Sector-1 MBP, Mahape, Mumbai, Mumbai City, MH 400701
3. The brief facts of the case are that the Petitioner in its Board meeting dated 14.01.2019, decided to go for voluntary liquidation as per the provision of section 59 of the Code, and passed a Board Resolution for commencement of Voluntary Liquidation. The Board members in the meeting of the Corporate Person have made an opinion that the company has no debt as on the date of the Declaration and that it will be able to pay its debts (if any) in full out of the proceeds of assets to be sold in the liquidation, arising during the course of liquidation and that the Company is not the and the company is not being liquidated to defraud any person.
4. It is submitted that as per the provision of Section 59(3)(b)(i) of the Code, the Directors of the Corporate Person i.e., Mr. Kiyotaka Emori, Mr. Siddharth Mishra and Ms. Isha Mishra has

filed the copy of declaration of solvency along with Valuation Reports, Audited Financial Statements and record of business operations for the latest two financial years 2016-2017 and 2017-18 e-form GNL-2 vide SRN H43306927 on 29.01.2019, the same was approved by the Registrar of Companies (hereinafter referred as ROC). Further, the Corporate Person also notified the ROC about the commencement of voluntary liquidation and the appointment of liquidator by virtue of e-form MGT-14 vide SRN H42940593 on 24.01.2019, the same was also approved by the ROC.

5. It is also submitted that the shareholders of the Company in its Extra Ordinary General Meeting held on 21.01.2019 passed a Special Resolution to liquidate the Company and to appoint Mr. Himanshu Shrivastava, having IP Registration No.IBBI/IPA-001/IP-P00163/2017-2018/10332 as the Liquidator with a total remuneration of Rs.39,19,500/-(Rupees Thirty-Nine Lakhs, Nineteen Thousand and Five Hundred only) for conducting the entire process of liquidation of the Corporate Person as required under Section 59 (3)(c)(i) of the Code.
6. Since there are no creditors in the company, the requirement of the Special Resolution being approved by creditors having 2/3rd value of shares as required under proviso to sub-section (3) of Section 59 does not arise.
7. The liquidator also submits that has made a public announcement for commencement of liquidation in two daily leading newspapers i.e. The Financial Express, on 25.01.2019

and in the Samna, Marathi on 24.01.2019, seeking submission of the claims by stakeholders, if any within 30 days from the date of commencement of liquidation i.e., 21.01.2019 as required under Regulation 14 of IBBI (Voluntary Liquidation Process) Regulations, 2017 (hereinafter called "IBBI Regulations"). The Liquidator submitted that no claims were received from any creditors.

8. The Corporate Person notified the Registrar of Companies, Mumbai and the IBBI, New Delhi about the passing of a Special Resolution to liquidate the Corporate Person. Further, the Liquidator has duly intimated the Income-tax Department on 07.03.2019 about the voluntary liquidation of the Corporate Person and the Income tax Department has issued certificate of no objection for the voluntary liquidation of the Corporate Person.
9. As per Regulation 34 of IBBI Regulations, the Liquidator has duly opened a Bank Account in the name and style of "Emori (India) Trading Private Limited – In Voluntary Liquidation" in Mizuho Bank Limited (Lower Parel, Mumbai), and in proof of that he has enclosed the certificate for opening of bank account.
10. The Liquidator filed a Preliminary report and Final Report along with the Petition giving the details of assets and liabilities as on liquidation commencement date based on the books of the company. The liquidator has also submitted the details of claim received and admitted. The liquidator has also given the details of proceeds of liquidation which is as follows.

“A. PROCEEDS OF LIQUIDATION

The Company has following Bank accounts with Mizuho Bank and the same would be closed and a new liquidation account will be opened with Mizuho Bank Ltd.

- i. H10-792-102325(INR)*
- ii. F10-792-910215(USD)*
- iii. F10-792-910231 (EUR)*
- iv. F10-792-910223 (JPY)*

Regulation 34 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulation, 2017 requires liquidator to open a Bank account in the name of the Corporate Person followed by the words ‘Voluntary Liquidation’, in a scheduled bank, for the receipt of all moneys due to the Corporate Person.

The Liquidator shall pay to the credit of the Bank account opened all moneys, including cheques and demand drafts received by him as the liquidator of the corporate person, and the realisation of each day shall be deposited into the Bank account without any deduction not later than the next working day.

The money in the credit of the bank account shall not be used except in accordance with section 53(1). All payments out of the account by the liquidator above five thousand rupees shall be made by cheques drawn or online banking transactions against the Bank account”

11. The The Liquidator further filed audited accounts of liquidation and the statement in accordance with Regulation 38 IBBI (Voluntary Liquidation Process) Regulations, 2017.

12. The Liquidator is required to realise the assets of the Corporate Person as mentioned under Regulation 32 of IBBI Regulations. The Liquidator distributed the assets in specie - equity shares (listed and unlisted) held by the company as investments, to the shareholders in their shareholding ratio. Further, the remaining balance of funds after payment of liquidation expenses were distributed between shareholders in their shareholding ratio.
13. The auditor audited the accounts of Liquidation as stated under Regulation 38 of IBBI Regulations. The Insolvency Resolution Professional filed final report stating that liquidation process has been completed by annexing Audited Accounts of liquidation. Finally, the Liquidator filed this Petition along with final report and sent a copy of the final report to the Registrar of Companies, Mumbai and IBBI (Compliance of Section 59(6) of Code, read with Regulation 32 and 34-38 of IBBI Regulations.)

ORDER

14. On the Petition filed by the Liquidator under sub-section 7 of Section 59 of the Code for dissolution of this Corporate Person, we have noticed that the affairs of the Corporate Person have been completely wound up and its assets are liquidated. We are of the considered view that this Corporate Person, through its Liquidator, voluntarily liquidated itself so as to get dissolved, therefore, we hereby dissolve this Corporate Person directing the Liquidator to file this order with concerned Registrar of

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Companies and IBBI within 14 days hereof. (Compliance of Section 59 (7-9) of the Code).

15. Accordingly, this Company Petition is allowed.

Sd/-
Rajesh Sharma
Member (Technical)

/Rohit/

Sd/-
Suchitra Kanuparthi
Member (Judicial)