



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI COURT – VI

ITEM NO. 1

CP (IB) 924/ND/2022

IN THE MATTER OF:

M/s. Shinmaywa Industries India Pvt. Ltd

... Applicant

Order under Section 59 of Insolvency and Bankruptcy Code, 2016

Order delivered on 17.07.2023

CORAM:

SHRI PRAVEEN GUPTA,

HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR,

HON'BLE MEMBER (TECHNICAL)

ORDER

Order pronounced in open Court vide separate sheets.

CP(IB) 924/ND/2022 stands allowed.

SD/-

(Rahul Bhatnagar)

Member Technical

SD/-

(Praveen Gupta)

Member Judicial



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-VI**

(IB)-924/ND/2022

IN THE MATTER OF:

M/S SHINMAYWA INDUSTRIES INDIA PVT. LTD.

CIN: U34101DL2009FTC234902

having its Registered Office at:

A-192, Sarita Vihar, New Delhi

Pin-110076, India

... Applicant/ Petitioner Company

UNDER SECTION: 59(7) of IBC, 2016

CORAM:

SHRI PRAVEEN GUPTA, HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT

FOR THE APPLICANT: Mr. Vinod Kr. Chaurasia, Adv. with Mr.

Rajiv Bajaj, Liquidator.

ORDER

PER: RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Date: 17.07.2023

1. This application is filed by the 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 seeking dissolution of M/s Shinmaywa Industries India Private Limited (hereinafter referred to as the ("Company").

2. That the aforesaid Company was incorporated on 03.06.2009 having CIN No. U34101DL2009FTC234902. The registered office of the Company is situated at A-192, Sarita Vihar, New Delhi Pin-110076, which lies within the territorial jurisdiction of this Bench.

3. That the following averments have been made in the petition: -

i. The Petitioner Company was incorporated to carry on the business of providing business auxiliary services like market research, sales promotion, advertisement of products and services and collection and analysis of business and market information relating to Manufacture and sale of motor vehicles. The main objects of the company are as under: -

A. To design, develop, manufacture, fabricate, alter, repair, assemble, operate, maintain, install, procure, buy, sell, import, export, trade and to deal in all types of special purpose vehicles, bodies, tippers, containers, cabins, tanks, drums, trailers, mixtures, dumpers, fixtures, fittings, chassis, cranes, hoists, caravans and special



gears and related parts required for all types of vehicles including cargo trucks, special purpose vehicles, bulk container systems, material handling vehicles, liquid or gas transport vehicles, public transport vehicles and all kinds of machinery and equipment and to provide after sales services.

B. To carry on the business as advisors, consultants, representative to other companies and its business units and corporate departments and to represent other companies in various matters in India such as, but not limited to, acting as buying / selling agents in India, conduct research work in the area in which other companies are engaged, undertake export and import activities and trading on wholesale basis, promote possible technical and financial collaborations between the Indian companies and overseas companies, rendering professional, marketing and technical support to the products supplied by other companies in India and acting as a communication channel between other companies and the customers in India including Indian companies.

ii. The Authorised Share Capital of the Company is Rs. 2,00,00,000/- (Rupees Two Crores) divided into 20,00,000 (Twenty Lakhs) equity shares of Rs. 10/- Rupees Ten



Rupees each. The issued, subscribed and paid-up share capital of the Company is Rs. 2,00,00,000/- (Rupees Two Crores) divided into 20,00,000 (Twenty Lakhs) equity shares of Rs. 10/- (Rupees Ten) each.

iii. The details of the directors of the Applicant Company are as follows:

Name	DIN	Address	Designation
SHINYA TOMIKURA	03085318	9-Chome, 3-3 Konakadai, Inage- KuChibaJapan263004 3	Director
YASUO KAWANISHI	05133366	5-Chome, 13-19, Higashigotanda Shinagawa-Ku TokyoJapan1410022	Director
RAJIV BERRY	00677976	A-192, SARITA VIHAR, NEW DELHIIndia110076	Director

iv. List of shareholders of the company as on date of commencement of Liquidation 05.09.2022 are as follows:



Srl No.	Name of Shareholder	No. of Equity Shares held of Rs.10/- each
1.	ShinMaywa Industries Limited, Japan	19,99,999
2.	ShinMaywa Industries Limited, Japan through its Nominee Mr. Yasuo Kawanishi	1
	Total	20,00,000

v. The company was carrying business which was no longer viable for past few years and not earning any profits from business and there are no viable / profitable business opportunities under consideration for future. The Board of Directors of the Company in their Meeting held on



29.08.2022 considered the matter and was of the opinion that due to non-availability of viable/ profitable business prospect and long-term financial resources it was not financially viable to carry on the business activities of the Company and proposed to close down the company by way of voluntary liquidation and passed a resolution to liquidate the Company voluntarily subject to the approval from the members of the Company.

vi. As required under the provisions of the Section 59 of the Code, all the three Directors of the Company, have made a declaration of solvency which has been placed on record with the application.

vii. As proposed by the Board of Directors, the members of the Company in an Extraordinary General Meeting held on 05.09.2022 passed a special resolution as per the requirement of Section 59 of the Code read with the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (hereinafter referred to as “the Regulations”) to liquidate the Company voluntarily and appointed Mr. Rajiv Bajaj, an Insolvency Professional having IP registration no. IBBI/IPA-002/IP N00276/2017-18/10834 to act as Liquidator of the Company (hereinafter referred to as “the Liquidator”).



viii. The Liquidator made a Public Announcement for commencement of the Liquidation in Form A of Schedule 1 of Regulations, published on 08.09.2022 in Form “A” in Jansatta -Hindi & Financial Express- English newspaper, seeking submission of the claims from the stakeholders, if any, within 30 days from the commencement of liquidation i.e.04.10.2022. The Public Announcement was simultaneously submitted to the Insolvency and Bankruptcy Board of India (hereinafter referred to as "the IBBI") to place the same on its website.

ix. As per the requirements of the Regulations, the Liquidator opened a Bank account of the Company in the name of “M/S SHINMAYWA INDUSTRIES INDIA PRIVATE LIMITED LIQUIDATION” with Axis Bank Limited, Statesman House, 148, BARAKHAMBA ROAD, New Delhi. A/c No. 922020051280564, for realisation and payment to the creditors, members and stakeholders. The Liquidator till last date of submission of claim had received no claim from creditors and other stakeholders.

x. As per the requirement of the Regulations, the Ld. Liquidator submitted its Preliminary Report to Stakeholders on 17.10.2022.



xi. As per the requirement of Section 176(3) and 178 of the Income tax Act, 1961, the Company has duly served the notice of discontinuance of business and the commencement of liquidation and appointment as a liquidator of the Company to the Income Tax Department on 08-09-2022, 09-09-2022 & 22-09-2022 with request to issue No Objection Certificate / No Dues Certificate. However, Income Tax Department has not given their No Objection Certificate / No Dues Certificate to the Company till date.

xii. The Liquidator submitted a Final Report, along with the Auditors Report on the liquidation, showing the realisation and payment to the creditors and members of the Company, containing the details as required under regulation 38 of the Regulations.

xiii. The copy of the Final Report has also been submitted to the Registrar of Companies, New Delhi in Form GNL-2 and has been also sent to the IBBI through e-mail.

xiv. That subsequent to the payment to the members / shareholders of the Company of Rs. 1,25,11,557.29 and payment of liquidation process cost of Rs. 16,43,794.8, the Liquidator has closed the liquidation Account.



xv. The voluntary liquidation process of the Company was completed on 15.12.2022 in terms of Regulation 37 of the Liquidation Regulations. The Liquidator declares that the liquidation process has been completed within 105 days from liquidation commencement date.

4. We gone through the application filed by the applicant/ Liquidator seeking dissolution in terms of section 59(7) of the Code.
5. This Tribunal, vide order dated 09.01.2023, directed the Petitioner to issue a notice to the RoC. Pursuant to the notice issued by this Tribunal, the RoC has filed its report dated 08.02.2023. In paragraph 6 of the said report, it was submitted that according to their records, there are no pending inquiries, inspections, complaints, or legal actions against the subject company. Additionally, the RoC has no objections in this matter.
6. That as per provisions of Section 178 of the Income Tax Act, 1961, the Liquidator intimated the commencement of liquidation and appointment of liquidator to the Income Tax Authority and for seeking its No-Objection Certificate. The Income Tax Department has not filed any reply. The IBBI vide its Circular No. IBBI/LIQ/45/2021 dated 15.11.2021, clarified that the provisions of the Code read with the IBBI Regulations, an Insolvency Professional handling voluntary liquidation



process is not required to seek any no objection certificate from the Income Tax Department for the dues of the Company.

7. The Liquidation Account maintained at Axis Bank Limited, Statesman House, 148, Barakhamba Road New Delhi, New Delhi was closed and letter dated 21.11.2022 received from Axis Bank confirming the closure of the Bank Account has also been placed on record by the applicant.

8. In view of the foregoing steps taken and the satisfaction accorded by the 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(7) of the Code and the said company is hereby dissolved with effect from the date of the present order. Under Regulation 41 IBBI (Voluntary Liquidation Process), the Liquidator is directed to preserve a physical or electronic copy of the reports, registers, books of account including Bank's Letter evidencing closure of the Bank Account maintained at Axis Bank Limited and other documents referred to in Regulation 8 and 10 for at least eight years for electronic copy and at least three years for physical copy after the dissolution of the company at a secure place.



9. A copy of this order be filed with the RoC within the statutory period as per the applicable provisions.

10. File be consigned to the Record Room.

SD/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-

(PRAVEEN GUPTA)
MEMBER (JUDICIAL)