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**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 11.03.2021

CAUSE LIST

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittalala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 25/BB/2021	For admission	Sec 59(7) of IBC code 2016	Toyo Tanso India Pvt Ltd	Arjun N A . PCS		

ADVOCATE FOR PETITIONER/s:

ARJUN . N.A
PCS for the petitioner
Mobile: 8050324024.

N.A. Arjun

ADVOCATE FOR RESPONDENT/s:

ORDER

Heard Shri Arjun N.A, Learned PCS for the Applicant Company.
CP (IB) No. 25/BB/2021 is allowed by separate order.

MEMBER (T)

MEMBER (J)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P.(IB)No.25/BB/2021
U/s. 59 & other applicable Provisions of
I & B Code, 2016 r/w IBBI
(Voluntary Liquidation Process) Regulation 2017

In the matter of:

Toyo Tanso India Private Limited,
No.82/1, 3rd Floor, 2nd Cross,
KHB Colony, 5th Block,
Koramangala
Bengaluru – 560 095

*Represented by its Liquidator,
Shri. Pawan Kumar Garg*

--- Applicant Company

Date of Order: 11th March, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Counsel/Parties Present:

For the Applicant : Shri. Arjun NA, PCS

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB)No.25/BB/2021 is filed by Toyo Tanso India Private Limited (Applicant Company) through its Liquidator Mr. Pawan Kumar Garg, U/s. 59 and other applicable provisions of the I & B Code, 2016 r/w IBBI (Voluntary Liquidation Process) Regulations 2017, by *inter-alia* seeking to dissolve the Applicant Company viz., Toyo Tanso India Private Limited etc.
2. Brief facts of the case, which are relevant to the issue in question, as follows:
 - (1) **“Toyo Tanso India Private Limited”** (hereinafter referred to as “Applicant Company”) is incorporated on 17.03.2011 under the

Provisions of the Companies Act, 1956, bearing CIN: U26931KA2011FTC057674 having registered office situated at No. 82/1, 3rd Floor, 2nd Cross, KHB Colony, 5th Block, Koramangala, Bengaluru - 560 095. Its Authorized Share Capital of the Company is Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only) divided into 1,50,000 Equity Shares of Rs.100/- each and issued, subscribed and fully paid up share capital is Rs. 1,50,00,000 (Rupees One Crore Fity Lakhs only) divided into 1,50,000 equity shares of Rs.100 each. The main objects of the Company, interalia is *to import, export & sale of various sort of Graphite and Carbon Products & after sale services, manufacturing and sale of graphite and carbon products etc.* Mr. Passang Yolmo with DIN: 02840026 and Mr. Hideki Kiku with DIN: 07369421 are the Directors of the Company.

- (2) The Board of Directors of the Company in their meeting held on 26.03.2018 decided to voluntary liquidate the Applicant Company and notices for the purpose of EGM of the members of the Applicant-company were also considered and approved along with other agendas. Further, as per Section 59 of the I & B Code, 2016, the Declaration of Solvency by the Majority of the Directors, duly verified by an affidavit were filed with the Registrar of Companies in Form GNL-2, with duly audited financial statements and record of business operations of the company vide SRN No. G88846092.
- (3) Subsequently, the Shareholders of the Applicant-company in their Extra Ordinary General meeting by special resolution approved the voluntary liquidation of the company and appointment of Sh. Pawan Kumar Garg, Insolvency Professional to act as the liquidator of the company. Further, there are no Creditors in the Applicant Company as on the date of commencement of liquidation, therefore no claims were received.

- (4) The certified true copy of the resolution was filed with Registrar of Companies in Form MGT-14 on 17.04.2018 vide SRN No. 'G83778027'. As per the provisions of the Code and applicable Rules, a Public Announcement was made in one English Newspaper 'Business Standard' and one Regional Newspaper 'Hosadigantha' on 05.04.2018 and the same was also sent on 'public.ann@abbi.gov.in'
- (5) The Liquidator duly intimated the Registrar of Companies on 17.04.2018 and for IBBI on 04.04.2018 and other Regulatory Authorities about its appointment and the commencement of the voluntary liquidation of the Applicant Company. Further, the liquidator opened a bank account in the name of 'Liquidator Account of Toyo Tanso India Private Limited' with MUGF Bank Limited for realization and payment to the creditors and members.
- (6) As per the provisions of Regulation 30 of Regulations, 2017, the liquidator prepared the list of stakeholders on the basis of claims submitted and accepted as per the law on 11.05.2018. Further, under Regulation 9 of the Regulations, 2017, the liquidator submitted its Preliminary Report to the Company on 11.05.2018.
- (7) It is stated that as the liquidation process could not be completed within a period of 12 months, under Regulation 37 of the Regulations, 2017, Annual Status Report for the period 31.03.2018 to 30.03.2019 containing all the details was presented in the meeting of the contributors of the Applicant-company held on 13.03.2019. Subsequently, the Annual Status Report along with audited receipt and payment for the period 31.03.2019 to 30.03.2020 containing all the details was presented in the meeting of the contributors of the applicant-company held on 12.08.2020. Submission of Annual Status Report for the period 31.03.2019 to 30.03.2020 was delayed due




- to Covid-19 pandemic and the same was accepted and adopted by the contributories.
- (8) The liquidator intimated the commencement of liquidation and appointment of liquidator to the Income tax Authority on 03.05.2018. After multiple reminders, the Income Tax Department issued a letter No. F. No./No due/BNG/ITO/W-7(1)(1)/2019-20 dated 26.02.2020 in accordance with Section 178 of the Income Tax Act, 1961 that there are no arrears of Income tax payable by the Company as on date.
- (9) The liquidator has confirmed that all the assets has been realized except VAT Deposit INR 1,20,000 and EDD Deposit INR 1,57,151. The liquidator repeatedly approached respective departments for refund said deposits but no responses were received. Since the deposits were not realized, the shareholders and the liquidator does not foresee any realization in near future, the above deposits were written off with the consent of shareholders.
- (10) That the liquidator has confirmed that liabilities have been paid off and the remaining bank balance was distributed among the shareholders in the ratio of their shareholding in the Company on 30.09.2020.
- (11) The Final Report of the liquidation process as required under Regulation 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017 was prepared on 09.10.2020 after the completion of the liquidation process on 30.09.2020 and the said report was submitted with the Registrar of the Companies in Form GNL-2 and also to the IBBI Board. The final receipt and payment account of the liquidation of the application-company was duly audited vide report dated 06.10.2020 by the Auditor of the company.
- (12) The Applicant declared that it had not filed previously any application, writ petition or suit regarding the instant matter




before any court of law or tribunal or any other authority or the Board.

3. Heard Shri Arjun NA, Learned PCS for the Applicant Company. We have carefully perused the pleadings of the party and extant provisions of the Code, and Rules made thereunder.
4. As stated supra, the Board of Directors of the Company at their Extra Ordinary General meeting held on 31.03.2018 passed a special resolution approving for the voluntary liquidation of the Company. In pursuance to the said Resolution, the Liquidator has complied with all the conditions and procedural requirements as specified under various provisions of Section 59 of the Insolvency and Bankruptcy Code, 2016. We are convinced that the Applicant Company has followed due process of law before filing the instant Application/Petition and nothing remains to be liquidated. Thus, the Petition/Application deserves to be allowed as prayed for.
5. In the result, by exercising the powers conferred on the Adjudicating Authority, under Section 59(8) of the Code, **C.P.(IB)No.25/BB/2021** is hereby disposed of with the following directions:
 - (1) The Corporate Person/Applicant Company, **'Toyo Tanso India Private Limited'** is hereby dissolved, with immediate effect;
 - (2) The Registry is directed to forward a copy of this Order to the Registrar of Companies, Karnataka, Bengaluru, within a period of two weeks from today;
 - (3) The Liquidator is also directed to forward copy of this Order to all other Statutory Authorities connected with the affairs of the Company;
 - (4) This order would not absolve personal liability/guarantees, if any, given by the Director(s)/Promoter(s) of the Company to any other third party/parties.


ASHUTOSH CHANDRA
MEMBER, TECHNICAL

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RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL