THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)

CP (IB) No.07/Vol./Chd/Hry/2019

Under Section 59 of the Insolvency and Bankruptcy Code, 2016

<u>In the matter of :</u>

Sidhivinayak Financial Services Limited
having its registered office at
9-H, First Floor, Moulsari Avenue DLF City,
Phase-3 Gurgaon – 122002 (HR)
CIN: U65999HR2012PLC045962

…Applicant Company

Judgment delivered on: 01.12.2021

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

<u>Present through Video Conferencing : -</u>

For the Applicant Company	:	Mr. Rattan Lal, Practising Company Secretary
For the Income Tax Department	:	Mr. Yogesh Putney, Advocate

<u>Per: Subrata Kumar Dash, Member (Technical)</u>

<u>JUDGMENT</u>

The present Company Application is filed under Section 59 of Insolvency & Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 by the Liquidator, Mr. Mast Ram, on behalf of the Applicant Company "Sidhivinayak Financial Services Limited", seeking an order for dissolution of the Applicant Company.

2. The relevant facts in the present Company Application are as under:

(i) The Applicant Company, i.e., M/s Sidhivinayak Financial Services Limited (under voluntary liquidation), was incorporated on 16.05.2012 having CIN U65999HR2012PTC045962, under the provisions of the Companies Act, 1956, with the Registrar of Companies, NCT of Delhi and Haryana, as a Private Company limited by shares and, thereafter, converted into Public Company limited by shares dated 21.03.2015 having CIN U65999HR2012PLC045962 under Section 18 of the Companies Act, 2013. It is having its registered office at 9 H, First Floor, Moulsari Avenue DLF City, Phase 3 Gurgaon – 122002 HR. A copy of previous certificate of incorporation and fresh certificate of incorporation are part of Annexure-1 of the application.

(ii) The Memorandum of Association along with Articles of Association of the Company and true copy of Master Data have been attached as Annexure-1 and Annexure-2 respectively in the main application.

(iii) It is stated that the applicant company was incorporated to carry on the business of Non-banking Financial Institutions under the Reserve Bank of India Act, 1934 but due to the legal constraints, the Company was unable to get the approval from RBI. Hence, it was not eligible to commence its business operations since incorporation. The Board of Directors of the Company in its meeting on 12.01.2019 has passed a resolution for Voluntary Liquidation of the Company in terms of Section 59 of the IBC, 2016 subject to the approval of members in the EOGM in the Company. The copy of notice and minutes of the said board meeting dated 12.01.2019 is attached as Annexure-3 of the application.

(iv) It is further stated that in order to meet statutory requirements of the provisions of Section 59 of the I&B Code, the Directors of the Company filed the declaration of solvency with RoC. The copy of Declaration of Solvency duly signed by the Directors is at Annexure-4 of the application and the copy of audited financial statements of the company for the years 2016-17, 2017-18 and 2018-19 till 31.12.2018 and 01.01.2019 till 27.08.2019 is at Annexure-5 of the application.

(v) It is further stated that the members constituting 100% of the company have approved the proposal of voluntary liquidation of the company and have appointed Mr. Mast Ram, Insolvency Professional, having Registration No. IBBI/IPA-002/IP-N00211/2017-18/10664 to act as Liquidator of the Company in its Extra Ordinary General Meeting held on 24.01.2019. The minutes of the aforesaid EOGM is attached as Annexure-6 of the application.

(vi) It is also reported that on the commencement of liquidation process, the liquidator duly informed the Registrar of Companies and IBBI in Form GNL-2 and MGT-14 along with a copy of special resolution passed in EOGM. The aforesaid copy of E-forms and challan filed with RoC are attached as Annexure-7 and 8 respectively of the application.

(vii) It is also stated that the liquidator has made public announcement of commencement of liquidation in Form A, "Financial Express", English Newspaper on 26.01.2019 and "Jansatta", Hindi Newspaper on 27.01.2019, inviting claims of stakeholders, if any, to be submitted on or before 22.02.2019. Copies of public announcements made in the newspaper publication have been attached with present application as Annexure-9.

(viii) It is also submitted that in terms of Section 178 of Income Tax Act, 1961, the Liquidator vide letter dated 15.03.2019 intimated the Income Tax Officer regarding his appointment as Liquidator and the same is attached as Annexure-12 of the application.

(ix) It is further submitted that the liquidator is required to verify the claims within 30 days. Since, there are no creditors in the company therefore, no claim was submitted by any creditor and the liquidator prepared the list with “NIL” stakeholders (Annexure-14 of the application).

(x) It is further stated that as required under Regulation 9 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the liquidator prepared the Preliminary Report as on 26.02.2019 which is attached as Annexure-15 of the application.

(xi) The applicant Liquidator has opened a separate Bank Account in the name of "Sidhivinayak Financial Services Limited in voluntary liquidation" on 03.04.2019, for realization and payment to the members as per the statutory requirement of regulations. The aforesaid liquidation account was closed on 10.05.2019

(xii) It is further stated that as per final report, the Liquidator has released the assets which includes cash in hand, short term loans & advances and cash at bank. The assets were finally distributed on 27.08.2019.

(xiii) The applicant Liquidator further states that the Auditor’s certificates on the liquidation, showing receipts and payments pertaining to liquidation since the date of its commencement are a part and parcel of final report dated 14.10.2019 as per Annexure-17 of the application.

(xiv) It is further reported that a copy of the final report has been submitted to the Registrar of Companies on 20.10.2019 and to IBBI on 15.10.2019 via email. A copy of E-form Form GNL-2 along with challan and acknowledgement of submitting the final report with IBBI are attached as Annexure-18 of the application.

(xv) The applicant liquidator has further informed that having made necessary payment to the shareholders of the company as well as income tax, the liquidator has closed down the liquidation account.

3. When the matter was heard on 16.12.2019, this Bench had directed that notices be issued to the RoC, IBBI and the Income Tax Department. The IBBI has filed its report vide Diary No.1249 dated 14.02.2020 wherein it has been stated that the company has notified the IBBI with regard to the resolution of the voluntary liquidation within 7 days. The Income Tax Department has filed its report vide Diary No.1324 dated 18.02.2020 wherein there has been no objection to the voluntary liquidation of the Company. The RoC has also filed its report vide Diary No.181 dated 17.02.2020 wherein it has been stated that there are no inquiry/inspection/complaint/legal action pending against the Company.

4. Having heard Mr. Rattan Lal, learned Authorised Representative of the Liquidator of the applicant company and Mr. Yogesh Putney, learned Senior Standing Counsel for the Income Tax Department and after going through the contents of present application, the merits there of is duly considered in the light of the statutory provisions of Section 59 of the IBC read with other relevant Regulations.

5. In the present case, it may be seen that the Company is incorporated to carry on the business of NBFC, but it was unable to get the approval from Reserve Bank of India. The Company has not commenced the business since its incorporation. In this background, the members of the company in its EOGM dated 24.01.2019 have also resolved to liquidate the company. Further, the applicant has informed the concerned authorities i.e. IBBI, RoC and Income Tax Department and has also made paper publication in Form A in two newspapers. The Liquidator has completed the final distribution of assets and has also closed the bank account. The voluntary liquidator has also prepared and submitted the final report to the IBBI on 15.10.2019 via e-mail and RoC on 20.10.2019. The Application is duly supported by the affidavit of the Voluntary Liquidator.

6. In view of the discussion foregoing, the applicant Company is hereby dissolved in terms of Section 59(8) of the Insolvency & Bankruptcy Code, 2016 with effect from the date of the present order.

7. The Liquidator is directed to communicate a copy of this order to the Registrar of Companies (NCT of Delhi & Haryana), wherein the registered office of the company was situated. Such Communication should be made within the stipulated period of fourteen (14) days in terms of Section 59(9) of the Insolvency & Bankruptcy Code, 2016 from the date of receipt of certified copy of this order. Further, a copy of this order should also be communicated to the IBBI, New Delhi and other statutory authorities for the information at the earliest.

8. The application is accordingly allowed and stands disposed of.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

December 01, 2021
AV/SRV