

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, BENGALURU

*(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)*

(through web-based video conferencing platform)

C.P.(IB)No.27/BB/2023

U/S.59 (7) of the IBC, 2016

R/w. IBBI (Voluntary Liquidation Process)
Regulations, 2017

In the matter of:

Mr. Vasudevan Gopu

Liquidator of GoPivotal Software India Private Limited

'G.V.Enclave', 18/30, Ramani Street,

K.K.Pudur Saibaba Colony, (4th Right Opp. Road

of Saibaba Colony Hotel Annapoorna Road),

Coimbatore – 641038.

- Applicant

Order delivered on: 4th July, 2023

- Coram:**
1. Hon'ble Ms. Bidisha Banerjee, Member (Judicial)
 2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the Liquidator: Ms. Vinuta Venkat Rao Undale, PCS

ORDER

Per: Manoj Kumar Dubey, Member (Technical)

1. This Application has been filed under Section 59 (7) of the IBC, 2016 R/w. IBBI (Voluntary Liquidation Process) Regulations, 2017 by the Liquidator on 28.09.2022, seeking for dissolution of the Company.
2. The aforesaid Company, M/s. GoPivotal Software India Private Limited (hereinafter referred to as "Applicant Company") was incorporated on 01.05.2013 under the provisions of the Companies Act, 1956, having CIN: U72200KA2013FTC068850. Its Authorized Share Capital of the Company is Rs.1,00,000/- divided into 10,000 Equity Shares of Rs.10/- each. The issued, subscribed and Paid-up Capital of the Company is Rs.1,00,000/- divided into

10,000 Equity Shares of Rs.10/- each. The main objects of the Company is involved in the business of developing, designing, licensing, testing, selling, marketing, distributing, and otherwise dealing with all kinds of information technology products including software and hardware applications and solutions etc.

3. The registered office of the Company is presently situated at Tower B, No.1 and 2, The Millenia, 2nd Floor, Murphy Road, Philip Tower, Ulsoor, Bangalore, which lies within the territorial jurisdiction of this Bench.
4. The following averments have been made in the Petition:
 - a. The Board of Directors of the Company in their meeting held on 10.03.2021 for taking note of **Declaration of Solvency** of the Company as required under Section 59 (3) (a) of the IBC, 2016 by majority of the Directors, decided to wind up the affairs of the Company by voluntary liquidation of corporate person. Further, the Directors have filed Declaration of Solvency dated 09.09.2021 and 14.09.2021 stating that they have made full inquiry into the affairs of the Company, and are of the opinion that the Company will be able to pay its debts in full from the Balance available in the Bank Account of the Company and the Company is not being liquidated to defraud any person.
 - b. The Company in its Extraordinary General Meeting held on 29.09.2021 passed a **Special Resolution to liquidate the Company voluntarily**, and appointed Shri Vasudevan Gopu, IP, to act as Liquidator of the Company. A copy of the minutes of the EOGM is attached as Annexure-8 of the Petition.
 - c. The Audited Financial Statements of the Company as on 31.03.2020 & 31.03.2021 along with Auditor's Report has been filed.
 - d. The commencement of liquidation and appointment of liquidator is intimated to the ROC in form MGT-14 on 05.10.2022 and GNL-2 (for submissions of documents) on 05.10.2022. The Public Announcement was simultaneously

submitted to IBBI to place the same on its website on 01.10.2021.

- e. **Public Announcement (Regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Liquidator made a Public Announcement of commencement of liquidation in Form A, in Financial Express, English Newspaper and Vartha Bharati, Kannada Newspaper on 01.10.2021, seeking submission of the claim by the stakeholders, if any, within 30 days from the date of commencement of liquidation i.e. 28.10.2021.
- f. **List of stakeholders (Regulation 30 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - It is submitted that the Company had received one claim from stakeholder namely 'Price Waterhouse & Co Chartered Accountants LLP' an Operational Unsecured Creditor, for an aggregate amount of Rs.10,28,960/-. Total Invoice amount of the Creditor is Rs.10,28,960/- out of which Rs.87,200/- was already deducted as TDS and deposited by the Company on 23.03.2021 at the time of accrual of due before liquidation commencement. Hence the outstanding amount payable to the Creditor of Rs.9,41,760/- was paid through the Liquidation Bank Account on 11.04.2022. Except from the above there were no other claims received from any of the stakeholders. As on date of Application the Company has the following stakeholders for final distribution of liquidated assets: VMWare International Unlimited Company, Ireland and VMWare UK Limited, UK were the only stakeholders of the Company for final distribution of liquidated assets. The Liquidator had prepared the "Final list of stakeholders" and the same is attached as "Annexure-18".
- g. **Preliminary Report (Regulation 9 (1) of Chapter IV of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Liquidator submitted the preliminary report to the Company on 13.11.2021.

- h. **Opening of Bank Account (Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** – As required under Regulations, the liquidator opened a separate Bank Account in the name of the Company was opened with HSBC Bank, Chennai Branch, for Liquidation purposes.
- i. **As per provisions of Section 178 of the Income Tax Act, 1961**, It is submitted that the Liquidator had sent notice to Income Tax Assessing officer U/s.178 of Income Tax Act, 1961 intimating the commencement of voluntary liquidation process of the Company. Further, the Liquidator had also sent notice to the GST Authorities U/s.88 of Central Goods and Services Tax Act, 2017 and Karnataka Goods and Services Tax Act, 2017, communicating on the commencement of voluntary liquidation process of the Company.
- j. It is stated that there were no unclaimed dividends and undistributed proceeds in the liquidation process, the assets of the Company were completely liquidated and distributed to the concerned stakeholders of the Company.
- k. **Distribution of Liquidation Proceedings** – It is submitted that the debt of the Corporate Person has been discharged in full to the satisfaction of the Creditors. The Liquidation funds were distributed to the concerned stakeholders as per the distribution mechanism prescribed U/s.53 of the IBC, 2016.
- l. **Bank Account Closure** – It is submitted that subsequent to the payment to shareholders, the Liquidator has closed the Bank Account on 13.06.2022.
- m. **Final Report – Regulation 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** – The Liquidator had the accounts audited for the liquidation period and submitted his Final Report on 20.09.2022. In connection with the accounts of the liquidation, the CA Certificate showing receipts and payments pertaining to liquidation period i.e. 02.04.2022 till 02.06.2022 has been completed in following manner:

Date	RECEIPTS	Rs.	Date	PAYMENTS	Nature of Payment	Rs.
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2.4.2022	Bank Balance Realized	9727135	21.4.2022	Liquidator fee paid (after deducting TDS)	Liquidation Expenses	93960
	Actual Bank balance as on liquidator commencement was Rs.9741209/- but after payment for public announcement expenses of Rs.7875 and other Bank charges of Rs.6199 amount realized into liquidation account was Rs.9727135		19.4.2022	TDS deducted and paid on Liquidator fee	TDS - as per Section 194J of Income Tax Act, 1961	8700
			29.4.2022	Bank Charges	Liquidation Expenses	5310
			02.6.2022	Bank Charges	Liquidation Expenses	11431
			11.4.2022	Creditor - Audit fee due (net off TDS)	Distribution to other creditors	941760
			25.5.2022	TDS deducted and paid on distribution to equity shareholder	TDS - as per Section 195 of Income Tax Act, 1961	892380
			2.6.2022	Payment to VMware UK Ltd.	Distribution to equity shareholder	689
			2.6.2022	Payment to VMware International Unlimited Company, Ireland	Distribution to equity shareholder	7772905
	Net Realization INR		9727135			9727135

It is further stated that the Company had only liquid Bank balance on the commencement of Voluntary Liquidation; Liquidation funds were distributed to the concerned stakeholders as per the distribution mechanism prescribed under Section 53 of the IBC, 2016; and no litigation is pending against the corporate person.

n. The Final Report dated 20.09.2022 of the Liquidating Company was submitted with ROC and IBBI on 22.09.2022.

5. Heard Ms. Vinuta Venkat Rao Undale, learned PCS for the Liquidator. We have carefully perused the record and extant provisions of the Code, and the Regulations made thereunder.
6. The affairs of the Corporate Person have been completely wound up and its assets have been liquidated and nothing remains to be liquidated. Thus, the compliances of Section 59 and other relevant provisions of the IBC, 2016 r/w. Regulation 37(2) of IBBI (Voluntary Liquidation Process) Regulations, 2017 from the date of commencement of the liquidation proceedings is completed. Hence,

we are of the considered opinion that the Corporate Person, through its liquidator, has been voluntarily liquidated.

7. In view of the foregoing, **M/s. GoPivotal Software India Private Limited**, the Applicant Company is hereby dissolved with effect from the date of the present order. A copy of this order be filed with the ROC within fourteen days.
8. The Petition bearing **C.P.(IB)No.27/BB/2023** is accordingly allowed in the above terms.

-Sd-
MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

-Sd-
BIDISHA BANERJEE
MEMBER (JUDICIAL)