



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court – II)
KOLKATA**

CP(IB)/148(KB)2022

In the matter of:

An application under section 59(7) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, for dissolution of the Corporate Person;

And

In the matter of:

ELLITE PROJECT CONSTRUCTION PVT. LTD (In Voluntary Liquidation),
(CIN: U45201WB1988PTC045207), having its Registered Office at 36A & B
Lansdowne Terrace Kolkata 700026;

.... Corporate Person

And

In the matter of:

MRS. PREMLATA SONI, Registration No. IBBI/IPA-002/IP-N00569/2017-2018/11737, Liquidator of **ELLITE PROJECT CONSTRUCTION PVT LTD,**
Yamuna Bhawan, 2nd Floor, Room No. 4, 55 Ezra Street, Kolkata 700001.

.... Petitioner/Liquidator

Coram:

Smt. Bidisha Banerjee : **Member (Judicial)**
Shri Balraj Joshi : **Member (Technical)**

Appearances through Video conferencing/physically:

For Liquidator : Ms. Meenakshi Manot, Adv.
Ms. Kiran Sharma, Adv.
Ms. Shristi Garg, PCS

Date of Hearing: 16/02/2023

Date of Pronouncement: 18/04/2023



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court – II)
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CP(IB)/148(KB)2022

O R D E R

Per: Bidisha Banerjee, Member (Judicial)

1. This Court convened through hybrid mode.
2. This is an application filed, under section 59(7) of the Insolvency and Bankruptcy Code, 2016, by the Liquidator **MRS. PREMLATA SONI** on behalf of the corporate person, **ELLITE PROJECT CONSTRUCTION PVT. LTD.** for dissolution of the corporate person upon voluntary liquidation. This application is supported by an affidavit¹ duly affirmed by Mrs. Premlata Soni, Liquidator.
3. The Corporate Person, **ELLITE PROJECT CONSTRUCTION PVT LTD (CIN: U45201WB1988PTC045207)**, through its directors filed with the Registrar of Companies a Declaration of Solvency² dated 01/12/2021 along with latest audited balance sheets³ for the two financial years ending on 31/03/2020, 31/03/2021 and for the period from 01/04/2021 to 30/11/2021 as required u/s. 59(3)(a) of Insolvency and Bankruptcy Code, 2016 (the “Code”) declaring that they have made a full inquiry into the affairs of the company and have formed an opinion that the company has no debt as on current date and that it will be able to pay its debts in full, from the proceeds of assets to be sold in the voluntary liquidation and that the company is not being liquidated to defraud any person in terms of section 59(3)(a) of IBC, 2016. The corporate person has also submitted Certified List of Shareholders and Directors⁴.

¹ At pages 151 & 152 of the petition

² Annexure “A-5” at pages 82 to 87 of the petition

³ Annexure “A-2” at pages 31 to 73 of the petition

⁴ Annexure “A-3” at pages 74 and 75 of the petition



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court – II)
KOLKATA**

CP(IB)/148(KB)2022

4. The Board of Directors at its meeting⁵ held on 01/12/2021 has taken a resolution to call Extra Ordinary General Meeting (“**EoGM**”) of the company to be convened on 28/12/2021 for stakeholders’ approval and to pass special resolutions for the voluntary liquidation of the corporate person and appointment of Liquidator. The special resolution passed by the Members at the EoGM held on 28/12/2021 was placed at **pages 88 to 110 (Annexure “A-6”)**.
5. The Voluntary Liquidation Process of the Corporate Person was commenced in terms of Special Resolution⁶ passed by the Corporate Person in the Extraordinary General Meeting held on 28/12/2021 appointing **Mrs. Premlata Soni having Registration No. IBBI/IPA-002/IP-N00569/2017-2018/11737**, as Voluntary Liquidator. Copy of Form **GNL-2** filed with the Office of the Registrar of Companies, West Bengal along with copies of Audited Financial Statements for Financial Years 2019-20 and 2020-21, declaration of solvency and record of business operations are also annexed to the petition. A statement showing Assets and Liabilities⁷ has also been annexed to the petition.
6. Public Announcement⁸ was made on 30.12.2021 in two newspapers one in “**Financial Express**” (English) and one in “**Ekdin**” (Bengali) in accordance with regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017 inviting claims from the creditors, fixing the last date on 27.01.2022 in addition to uploading the Public Announcement on the Website of IBBI. Since the Corporate Person does not have any website, compliance of regulation 14(3)(a) of the IBBI (Voluntary Liquidation Process) Regulations, 2017

⁵ Annexure “A-4” at pages 76 to 81 of the petition

⁶ Annexure “A-6” at pages 88 to 110 of the petition

⁷ Annexure “A-7” at page 111 of the petition

⁸ Annexure “A-8” at pages 112 to 113 of the petition



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court – II)
KOLKATA**

CP(IB)/148(KB)2022

(“**Regulations, 2017**”) was not required in the instant case.

7. Notice⁹ in terms of section 178 of the Income Tax Act, 1961 as amended vide letter dated 14.01.2022 was served on the Assessing Officer via e-mail and on 19.01.2022 through hand delivery duly received by the concerned Office of the Assessing Officer. Intimation¹⁰ to the Registrar of Companies, West Bengal vide letter dated 11/01/2022 enclosing the following documents regarding voluntary winding up of the corporate person was given by hand delivery:
- (a) Extract of the Minutes of the Board Meeting in Annexure A1;
 - (b) Copy of Notice of the EoGM along with Explanatory Statement in Annexure A2;
 - (c) Extracts of the Spl. Resolution passed at the EoGM in Annexure A3;
 - (d) Copy of Form GNL-2 along with the copy of Challan in Annexure A4;
 - (e) Copy of Form MGT-14 along with the copy of Challan in Annexure A5;
 - (f) Form - A (Public Announcement) in Annexure A6;
 - (g) Newspaper Clippings in Original in Annexure A7.
8. The Liquidator has opened a new bank account on 17/01/2022 with the State Bank of India, P & SB Kolkata, 173, Sarat Bose Road, Kolkata 700026 being **Account No. 40721665695** in the name of the “Ellite Project Construction Pvt. Ltd. (in Voluntary Liquidation)” and has annexed Statement of Account¹¹ for the period from 17/01/2022 to 22/04/2022 showing closing balance as on 22/04/2022 as “**Zero**”.
9. As per regulation 9 of the Regulations, 2017, Preliminary Report¹² dated 10/02/2022 has been placed as Annexure A-12 to the petition.
10. The applicant has stated that she has received a demand from Income Tax

⁹ Annexure “A-10” at pages 115 to 116 of the petition

¹⁰ Annexure “A-9” at page 114 of the petition

¹¹ Annexure “A-11” at pages 117 to 120 of the petition

¹² Annexure “A-12” at pages 121 to 123 of the petition



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court – II)
KOLKATA**

CP(IB)/148(KB)2022

Department after intimation of the Voluntary Liquidation Process and the same has been duly paid to the credit of the Income Tax Department.

11. The applicant has further stated that in relation to other liabilities of the Corporate Person, the Liquidator has not received any claim/proof of claim from any of the stakeholders of the Corporate Person, save and except the demand from the Income Tax Department, which has been duly paid, after the public announcement made till the date of signing of this application.
12. It is submitted by the Learned Counsel for the Liquidator that –
 - (a) the assets of the Corporate Person have been disposed of;
 - (b) the debts of the Corporate Person have been discharged to the satisfactions of the creditors, which is “nil”;
 - (c) no litigation is pending against the Corporate Person;
 - (d) all the assets of the Corporate Person have been fully disposed of and the liquidation process has been fully completed;
 - (e) The Corporate Person had only cash balance, bank balance and IT Refundable as its assets, hence no sums are available for transfer to Companies Liquidation Account in terms of regulation 39 of the Regulations, 2017.
13. It is further submitted that there was no occasion for sale of assets since the Corporate Person did not have any assets other than cash balance, bank balance and IT Refundable that have been realised in full. Incidentally, there is no occasion for any valuation report for the same reason since the assets include only Bank Account.
14. Final Report dated 29.04.2022 was made after completion of the voluntary liquidation process and the same was duly sent to IBBI and the Registrar of Companies as per requirement under regulation 38(2) of the Regulations,



**IN THE NATIONAL COMPANY LAW TRIBUNAL
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KOLKATA**

CP(IB)/148(KB)2022

2017. Final Report¹³ dated 29.04.2022 together with audited receipts and payments and report thereon are annexed to the petition. Proof of Service of Final Report¹⁴ to IBBI by e-mail and the Registrar of Companies in Form **GNL-2** are also annexed to the petition. As per regulation 38(3) of the Regulations, 2017, the Liquidator has submitted **Form – H**¹⁵ submitting details of the Voluntary Liquidation Process of the Corporate Person.
15. The Liquidator has also annexed to the petition audited statements of accounts¹⁶ showing receipts and payments of the Winding Up (Members Voluntary) from 28.12.2021 to 22.04.2022 of the Corporate Person (ELLITE PROJECT CONSTRUCTION PVT LTD – In Voluntary Liquidation).
16. We have heard the Learned Advocate and perused the documents annexed to the Company Petition. The Liquidator has published notice of liquidation in two newspapers inviting claims from stakeholders and in response no claims were received from any stakeholders, save and except the demand from the Income Tax Department, which has been duly paid. The Corporate Person does not have any assets other than bank balance. After meeting liquidation costs and the demand from the Income Tax Authorities, the Liquidator has distributed the balance amount amongst the stakeholders. We notice that the affairs of the Corporate Person have been completely wound up and its assets are liquidated. The bank account has also been closed. We are satisfied from the documents on record that the voluntary liquidation is not with intent to defraud any person. There appears to be no impediment in sanctioning the dissolution of the Corporate Person. Consequently, the Corporate Applicant, viz., **ELLITE PROJECT CONSTRUCTION PVT LTD (CIN:**

¹³ Annexure “A-15” at pages 129 to 134 of the petition

¹⁴ Annexure “A-16” at pages 135 to 139 of the petition

¹⁵ Annexure “A-17” at pages 140 to 147 of the petition

¹⁶ Annexure “A-14” at pages 125 to 128 of the petition



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court – II)
KOLKATA**

CP(IB)/148(KB)2022

U45201WB1988PTC045207), having its Registered Office at 36A & B Lansdowne Terrace Kolkata 700026 would stand dissolved from the date of issue of this order.

17. The Liquidator of the Corporate Petitioner is further directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within **fourteen days** of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
18. CP(IB)/148(KB)2022 shall stand disposed of in accordance with the above directions.
19. The Registry is directed to send e-mail copies of the order forthwith to all the parties and the Liquidator for information and for taking necessary steps.
20. Certified copy of the order may be issued to all the concerned parties, if applied for, subject to compliance with all requisite formalities.
16. File be consigned to records.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 18th day of April, 2023.

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