IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – II

C.P. (IB)-594(MB)2023

Under Section 59 of the Insolvency and Bankruptcy Code, 2016 read with the provisions of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017.

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

Cummins Research and Technology India Private Limited

(CIN: U73100PN2003PTC018025)
Having its registered address at;
Cummins India Office Campus,
Tower A, 5th Floor, Survey No. 21,
Balewadi, Pune - 411 045.
Represented by Liquidator,
Mr. Rajesh Shah

… Liquidator/Applicant

Order delivered on: 13.12.2023

Coram:

Anil Raj Chellan	**Kuldip Kumar Kareer**
Member (Technical)	**Member (Judicial)**

Appearances:

For the Petitioners : Mr. Akshay Petkar a/w Mr. Aniket Malu

ORDER

1. This is a Company Petition filed by the Liquidator in relation to voluntary liquidation of Cummins Research and Technology India Private Limited (hereinafter referred to as the **"Corporate Person"**) under Section 59(7) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "**IBC**") seeking dissolution of the Corporate Person.

2. The Corporate Person was incorporated on 11.06.2003 under the provisions of Companies Act, 1956 with Corporate Identification No.U73100PN2003PTC018025. The main object of the Corporate Person is to provide technical consultancy services through IT enabled services, exclusively to Cummins Inc. USA, its Subsidiaries, Joint Ventures and Associate Companies in relation to or in connection with research, development and design of conventional and non-conventional energy generation technologies including fuel cells, internal combustion engines, etc. The details of the main object as set out in the Memorandum of Association is attached with the Application.

3. The authorised share capital of the Corporate Person is Rs.2,50,00,000/- divided into 25,00,000 equity shares of Rs.10/- each.

The paid up share capital of the Corporate Person is Rs.22,92,000/- divided into 2,29,200 equity shares of Rs.10/- each and the same can be corroborated from the MCA Master data filed along with the Application.

4. It is seen from the record available with the MCA that the Corporate Person has 3 Directors, the name and details of the Directors are as follows:

Sr. No.	**Name**	**DIN**
1.	Ajay Shriram Patil	01217000
2.	Sanjit Kaur Batra	06998913
3.	Pradheepram Ottikkutti	08617671

5. The learned Counsel appearing for the Applicant submitted that, the Board of Directors of the Corporate Person considered voluntary liquidation of the Corporate Person as the Corporate Person was not carrying out any business or generating any profits since FY 2015-16. The Board of Directors of the Corporate Person unanimously decided to discontinue the operation of the Corporate Person from 01.04.2016.

6. As the operations of the Corporate Person stood ceased from 01.04.2016 and possibility of resuming the office was lost, the Board of Directors of the Corporate Person decided to voluntarily liquidate the Corporate Person and pass requisite resolution in the meeting of the Board of Directors held on 25.03.2022, wherein Mr. Rajesh Shah (hereinafter referred to as the "**Applicant / Liquidator**) was appointed as Insolvency Professional to act as Liquidator.

7. Accordingly, an Extra Ordinary General Meeting was held on 01.04.2022 wherein the members of the Corporate Person passed special resolution to voluntarily liquidate the Corporate Person under Section 59 of IBC r/w the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulation, 2017 (hereinafter referred to as "**Voluntary Liquidation Regulations**"). A copy of the said special resolution of the EOGM is attached with the Application and a copy has been filed with the Registrar of Companies, Pune in Form No.MGT-14 and Form GNL-2.

8. The statement as on 24.03.2022 duly certified by the Directors and Chartered Accountant is attached at page 74 to the Application, according to same, the assets and liabilities of the company as on date were as under:

Sr. No.	**Particulars**	**Amount**
ASSETS:		
1.	Balance at bank	2,19,70,575.37
2.	Non-current Asset (Income Tax Asset)	6,84,856.27
	Total	2,26,55,431.64
LIABILITIES:		
3.	Share Capital	22,92,000.00
4.	Reserves & Surplus	2,03,44,676.09
5.	Trade Payables	15,340.32
6.	Other current liabilities	3,415.23
	Total	2,26,55,431.64
	Estimated Surplus after paying debts in full	2,09,44,431.64

9. The learned Counsel of the Corporate Person submitted that as per provisions of Section 59 of IBC, the Directors of the Corporate Person

submitted declaration of solvency along with the audited financial statements and record of business operation of the Corporate Person for the previous two FY 2019-20 and 2020-21.

10. The learned Counsel submitted that the Liquidator has made a public announcement on 05.04.2022 as required under Regulation 14 of Voluntary Liquidation Regulations in Business Standard, English newspaper and Loksatta, Marathi newspaper both circulated in Pune seeking submission of claim by stake holders within 30 days of commencement of voluntary liquidation of the Corporate Person i.e. 1st April 2022. Further it was submitted that the public announcement was published on official website of Insolvency and Bankruptcy Board of India (**IBBI**). The learned Counsel submitted that a bank account is opened with HDFC bank in the name of Corporate Person under Voluntary Liquidation for a realisation and payment liquidation proceeds to the stakeholders on 6th April 2023.

11. The learned Counsel submitted that as per Regulation 9 of Voluntary Liquidation Regulation. The Liquidator has submitted his preliminary report on 14.05.2022. The copy of the report is annexed as Exhibit-G to the Application at page no.131.

12. The learned Counsel submitted that the Liquidator has intimated the initiation of the liquidation of Corporate Person and the same is annexed as Exhibit-H to the Application at page nos.135 to 150.

13. The learned Counsel states that the Corporate Person expected refund from income tax department of an amount of Rs.2,50,000/-, however, even after waiting for more than 1 year, the refund was never received.

Hence, the Liquidator obtained consent of the shareholders to forego the refund amount and distribute the remaining balance after meeting all the expenses to the shareholders.

14. The learned Counsel submits that an amount of Rs. 2,26,55,431/- was received in the liquidation account of the Corporate Person out of which Rs.19,11,100/- was paid towards the liquidation process cost and a sum of Rs.2,02,78,929/- was distributed to the shareholders of the Corporate Person.

15. The learned Counsel for the Corporate Person submits that the bank account of the Corporate Person maintained with HDFC bank shows nil balance and the auditor's certificate on the final liquidation account showing receipts and payments since inception of liquidation process of the Corporate Person is attached with the Application.

16. Pursuant to Regulation 38 of the Voluntary Liquidation Regulations has prepared the final report of the voluntary liquidation of the Corporate Person dated 20.04.2023 and the same is submitted to the RoC and IBBI.

17. It is submitted that all the liabilities of the Corporate Person have been extinguished and there are no assets which remains to be realised. The Applicant further declares that no Application, Petition or Suit with respect to the present matter has been filed before any court of law or any other authority or any other board or any other bench and no such proceeding is pending before any forum. Therefore, the Liquidator has preferred the present Application before this Adjudicating Authority

under Section 59(7) of IBC seeking dissolution of the Corporate Person.

18. On examining the submissions made by the Counsel appearing for the Applicant, documents and the additional affidavit dated 02.12.2023 annexed to the Petition, it appears that the affairs of the Corporate Person have been completely wound up and its assets are completely liquidated. We are also satisfied that the documents on record that the voluntary liquidation is not with an intent to defraud any person and the bank account for the purpose of the liquidation has been closed.

19. In view of above facts and circumstances and submissions made by the Applicant, the Corporate Person deserves to be dissolved and the present **Company Petition is allowed and disposed of.**

20. The Registry and Liquidator is directed to serve a copy of this order upon the RoC, Pune and also to IBBI within 14 days from date of this order.

Sd/-	**Sd/-**
ANIL RAJ CHELLAN	**KULDIP KUMAR KAREER**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**