

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.302
C.P. (IB)/109(AHM)/2022

Order under Section 59 r.w. Reg.38 of IBC, 2016

IN THE MATTER OF:

Super Domestic Machines Ltd.

....Applicant

....Respondent

Order delivered on: 07/03/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I,
AHMEDABAD**

CP (IB)/109/59(7)/(AHM)/2022

[Application under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 read with the Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 for dissolution of the Corporate Person]

*In the matter of **M/s. Super Domestic Machines Limited***

M/s. Super Domestic Machines Limited

(Under Voluntary Liquidation)

Having its registered office at:

T.F.-416, Madhavpura Ganj Bazar,

Nr. Hathisingh Vadi,

Opp. Ambaji Mata Mandir, Madhavpura,

Ahmedabad-380004.

Through its Liquidator, **Mr. Manish S. Buchasia.**

... Applicant/ Liquidator

Order Pronounced on 07.03.2024

CORAM:

SH. SHAMMI KHAN, MEMBER (JUDICIAL)

SH. SAMEER KAKAR, MEMBER (TECHNICAL)

Appearance:

For the Applicant: Mr. Manish Buchasia, Ld. PCS

ORDER
[Per: Bench]

1. The present Company Petition is filed by Corporate Person, M/s. Super Domestic Machines Limited bearing CIN: L74999GJ1995PLC025130 through its Liquidator **Mr. Manish S. Buchasia, Insolvency Professional, holding registration No: IBBI/IPA-002/IP-N00487/17- 18/11449**

in relation to the voluntary liquidation of, under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC, 2016”), seeking **dissolution** of the Company.

2. The Applicant has prayed from this Tribunal following reliefs:

- (i) *The Hon'ble Tribunal to dissolve the corporate person upon the application made under Section 59 (7) of IBC 2016.*
- (ii) *To pass an order to dissolve the corporate person from the date of order passed by the Hon'ble NCLT, Ahmedabad Bench.*
- (iii) *The Hon'ble Tribunal to pass an order to serve the copy of an order to the Registrar of Companies, Gujarat.*
- (iv) *Any other directions which the Hon'ble National Company Law Tribunal, Ahmedabad Bench may deem fit in the facts and circumstances of the matter.*

3. It is stated that CIN of ‘M/s. Super Domestic Machines Limited’ is L74999GJ1995PLC025130. The company was originally incorporated on 22.03.1995 under the provisions of the Companies Act, 1956 on issuance of certificate of incorporation by the Assistant Registrar of Companies, Ahmedabad.

4. It is submitted that the corporate person M/s. Super Domestic Machines Limited was incorporated with a purpose of doing business trading of various kinds of machine tools and machine parts, as mentioned in the Memorandum of Association annexed as Annexure-A at page no.29 of the application.

5. It is submitted that the Board of Directors of the Company, by considering that the Corporate Person, due to non-availability of business prospects and long term financial resources it is not financially viable to carry business activities, the Board of Directors of the company considered and decided that it is prudent to voluntary liquidate the company. For the very purpose, the Directors of the company had filed declaration of solvency and the company appointed Mr. Umesh Harjivandas Ved as Voluntary Liquidator of the company in the annual general meeting held on 30.09.2020 by passing a Special Resolution.

6. It is further submitted that the Board of Directors thereafter changed the liquidator and appointed the present Applicant Mr. Manish S. Buchasia as the Voluntary Liquidator of the company on request of members of the company in Extra-Ordinary General Meeting held on 10.09.2021 by passing a special resolution as liquidator of the company for completion of further process of liquidation. The Liquidator made public announcement and also communicated about liquidation with Registrar of Companies, Stock Exchange, Income-Tax Department and the Insolvency and Bankruptcy Board of India (IBBI). It is stated that the Liquidator also opened a separate bank account as per the requirements of Insolvency and Bankruptcy (Voluntary Liquidation Process) Regulations, 2017 to carry out further process of liquidation. The Applicant/ Liquidator distributed the proceeds from the realization of assets involved in the process of Voluntary Liquidation to the stakeholders which were transferred from the liquidation

account.

7. It is stated that after all the distributions made, the Applicant/ Liquidator closed the Bank Account and prepared a final report and submitted the same with the Registrar of Companies and IBBI.
8. This Bench, vide its order dated 04.10.2023 had directed the Applicant/ Liquidator to file Form H and the synopsis in a revised format, which was said to be complied by the Applicant on 31.10.2023. On 28.11.2023, the Applicant/ Liquidator submitted before this Bench that now the Income-Tax Department has served a demand of approximately Rs.39,01,802/- lakh on the company in liquidation. This Bench directed the applicant/ liquidator to file an affidavit as to how the demand of the Income-Tax Department has been dealt with by him in the present application. A copy of such letter of Income Tax Department is placed on record vide Diary No.D2993 dated 03.06.2022.
9. On 12.12.2024, this Bench has recorded in its preceding that:
“An additional affidavit has been filed by the Liquidator on 02.02.2024, vide inward diary No.935 and prayed for withdrawal of the liquidation process.”
The order was reserved.
10. We perused the affidavit submitted by the Applicant. We perused the documents and pleadings available on record.
11. It is stated by the Applicant/Liquidator in his aforementioned affidavit that a proper intimation to Income

Tax department had been given under Section 178 of the Income Tax Act, 1961 for filing of claim. But no claim had been filed by the authority during the claim filing period as per Form A (Public Announcement). The details of notices served by the Applicant/ Liquidator are as under:

S. No.	Notice to	Speed Post Number	Date	Page no.
1.	1 st Notice: Intimation under Section 178 of the Income tax Act, 1961	EG286814420IN	09-10-20	308 - 309
2.	2 nd Notice: Notice of appointment & Requested to submit No Due Certificate	Hand delivery	09-06-21	310

12. The Applicant/Liquidator has submitted in his affidavit that no distribution has been done during the liquidation period only merely liquidator fees (including old liquidator) is met out of the Bank Balance of the Liquidation Account of the Corporate Debtor. In support of his contentions, the Applicant annexed following documents tabulated as under:

S. No.	Particular	Page no.
1.	Bank statement of the liquidation account or company	311-312
2.	Final report	313

13. The Applicant/ Liquidator further submitted that he tried to get resolve this issue with the help of statutory auditor of the company, all the Directors/ Managing Director, Statutory Auditor and the Corporate Debtor of the company. Some of the communication made by the Applicant/ Liquidator is tabulated as under:-

Full Name	Designation	Date of Email	Date of Post (Courier) with post details	Email
Pragnesh Himmatlal Yagnik	Director	06/01/2024	06/01/2024 AWB Number: 794214096	superdomestic123@gmail.com
Ankurkumar Thakorbhai Patel	Director	06/01/2024	-	meetankurpatel@gmail.com
Pradeep Narendra Bhatt	Managing Director	06/01/2024	06/01/2024 AWB Number: 794214095	pradeep.bhatt@capiteous.com
Statutory Auditor	Statutory Auditor	02/12/2023 and 20/01/2024	-	vishvesca@gmail.com
Corporate debtor	Corporate debtor	02/12/2023, 06/01/2024 and 20/01/2024	06/01/2024 AWB Number: 794214094	superdomestic123@gmail.com

14. It is submitted that the Applicant/ Liquidator did not receive any response from the last one month even after rigorous follow up with the management of the Corporate Debtor. It is further stated that there is no balance in the bank account of the Corporate Person as it was closed and there are no assets with the company. Hence, it is not possible to meet the demand of the Income Tax Authority.

15. It is submitted by the Applicant/Liquidator in Para-6 of affidavit for withdrawal that:

“During the Course of Dissolution Application Filed before Registry some income tax Demand even they appeared for the same. I have cross checked the Income tax demand in detail from Income Tax portal also which is attached herewith. In such a situation I have left no option and it seem at this stage company is not solvent due to the said income tax demand which come to know at the end of the matter and requesting the adjudicating authority for withdrawal of entire liquidation process of the corporate debtor which was initiated by the Corporate debtor under section 59 of the Insolvency Bankruptcy Code, 2016 via passing special Resolution dated 30.09.2020.”

16. Learned Applicant/ Liquidator, Mr. Manish S. Buchasia draw our attention to a decision in the matter of **Ashish Shah, Liquidator of E-Comm Opportunities Pvt. Ltd. order dated 06.01.2022 under CP(IB)/238(AHM)2021** under Section 59 of the Insolvency and Bankruptcy Code, 2016 which is reproduced here for the sake of brevity:

“Liquidator seeking to withdraw the process of liquidation which was initiated by the corporate person as per the provision of IBC, 2016 after progressing for Voluntary Liquidation, found that it will not be feasible and no sufficient funds are available to continue.

In view of the submission made and documents available on record, we allow the application and thereby allow the Voluntary Liquidation process initiated by the corporate person M/s e-commerce opportunities private limited to be withdrawn.

The Learned Counsel for Income Tax Department states that they have found out certain demands against the corporate person. The Income Tax Department has power to proceed as per Income Tax Act independently.

Petition is allowed to be withdrawn and disposed of.”

17. Hence, in view of judgment reproduced above, we are left with no choice except to allow to withdraw the Voluntary Liquidation Process.

18. Accordingly, the voluntary liquidation proceedings of M/s. Super Domestic Machines Limited is terminated and the Applicant/ Liquidator is directed to take appropriate steps to communicate this order be filed with the ROC within fourteen

days. The Applicant / Liquidator is hereby discharged from his duties.

19. Accordingly, the present application i.e, CP(IB) No.109/59(7)/(AHM)/2022 is dismissed as withdrawn and stands disposed of.

-Sd-

**SAMEER KAKAR
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN
MEMBER (JUDICIAL)**

AT