

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**  
**COURT - IV**

**C.P.(IB)/469/ND/2023**

[Under section 59 of the Insolvency & Bankruptcy Code, 2016 r/w the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017]

**In the matter of:**

**M/s. Nu-Foam Rubber Industries Private Limited**

CIN: U74899DL1986PTC026477

Through Ms. Maya Gupta, Liquidator

**... Applicant Company**

**Order Delivered on: 02.07.2024**

**CORAM:**

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM, HON'BLE MEMBER  
(JUDICIAL)**

**DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

**For the Applicant : Adv. Rakesh kumar, Adv. Preeti Kashyap,  
Adv. Ankit Sharma, Adv. Varun Pandit,  
Adv. Yash Dhawan**

**For the RoC : Adv. Jyoti Khurana**

**ORDER**

**PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)**

1. The instant application has been filed by the Liquidator Ms. Maya Gupta, on behalf of M/s. Nu-Foam Rubber Industries Private Limited ("Applicant Company") bearing CIN: U74899DL1986PTC026477 under Section 59 of the Insolvency & Bankruptcy Code, 2016 ("Code") read with the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 ("Voluntary Liquidation Regulations") seeking the following prayer(s): -

- a) Pass an order for dissolution of the Company.
  - b) To take on record the distribution of the assets 92, IDC, Mehrauli Road, Gurgaon, Haryana-122002 and Flat no. 7-C, Tower 26, Central Park resorts, Sector-48, Gurgaon, Haryana-122018 in the shareholding ration of the shareholders i.e., 56% and 44% respectively.
  - c) To pass such order or further order(s) as this Hon'ble Tribunal may deem fit and proper in the circumstances of the present case.
2. The brief facts, giving rise to filing of the instant Application, which are just and necessary for adjudication, are narrated hereunder: -
- i. The Applicant Company i.e., M/s. Nu-Foam Rubber Industries Private Limited is a private limited company incorporated on 26.12.1986 under the provisions of the Companies Act, 1956 having CIN: U74899DL1986PTC026477 and registered office situated at J-8/109, Rajouri Garden, New Delhi-110027. The applicant company submits that since its incorporation it was engaged in the business of manufacturing, trading, importing, exporting, selling or otherwise dealing in any type off foams and foam products and to carry on the business of manufacturers, traders, exporters, distributors, or working as agents of latex foam and other foam including foam products.
  - ii. The applicant company submits that the Board of Directors in their meeting held on 17.03.2021 had approved the resolution by 100% voting on 22.03.2021 for voluntary liquidation of the Applicant Company and appointment of Liquidator and directors of the Applicant Company had signed the declaration of solvency of the Applicant company on 17.03.2021 in compliance with the provisions of Section 59(3) of the Code, 2016. The declaration of solvency with the ROC in e-form GNL-2 vide SRN T11071156 on 01.04.2021 has been filed which is on record.

- iii. The applicant has also intimated the RoC, IBBI and Income Tax Department about the status of the company of Voluntary Liquidation and appointment of the applicant being the liquidator.
- iv. The applicant company submits that the meeting of shareholders of the company in the Extra Ordinary General Meeting (EGM) was held on 22.03.2021 wherein a special resolution relating to voluntary winding up of the company and appointment of Mrs. Maya Gupta, Insolvency Professional [IBBI/IPA-002/IP-N00363/2017-2018/11061] as Liquidator who has given his consent to act as Liquidator was passed. The special resolution duly notified to the ROC in the e-form MGT-14 vide SRN T10365930 dated 26.03.2021 has been filled which is on record.
- v. The applicant company submits that as per Regulation 14(3)(c) of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the public announcement in Form A of schedule I was published in the newspapers on 23.03.2021, being the newspaper having circulation in the State of Delhi inviting claims of stakeholders, if any, and submit their claim within 30 days from the date of commencement of liquidation. In pursuant to the public announcement only one claim from the Excise and Taxation Department Haryana was received and collated to the tune of Rs. 36,175/- and has been paid from the liquidation estate of the company.
- vi. The applicant company further submits that the copy of the publication was notified to the Insolvency and Bankruptcy Board of India for publication on its website.
- vii. The applicant company submits that in terms of the Regulation 9 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 the Liquidator had prepared and submitted preliminary report to the Company on 16.06.2021.

- viii. It is pertinent to mention that there are only two immovable assets in the company other than petty movable assets. Further, it is submitted that the contributories i.e., the shareholders of the company unanimously called the meeting dated 21.08.2021 showing their inclination to settle their proceeds of shareholding with assets in the company. That, further meetings were held in relation to distribution of assets and funds lying in the bank accounts of the company in accordance with the decisions taken by the stakeholder in the meetings held on 09.04.2022 and 23.03.2023 respectively.
- ix. Since, there are no other claims filed by any other creditors before the Liquidator, these assets are ultimately to be disposed of as per the voluntarily liquidation regulations. In the absence of any other claimant/creditor, the proceeds received from the liquidation of the assets are to be distributed among the shareholders in their respective shareholding in the Company.
- x. The Liquidator may, as per Regulation 35(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 with the approval of the corporate person, distribute amongst the stakeholders, an asset that cannot be readily or advantageously sold due to its peculiar nature or other special circumstances. The relevant portion of the Regulation 35(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 is reproduced herein below:-

*35. Distribution.*

- 1. The liquidator shall distribute the proceeds from realization within six months from the receipt of the amount to the stakeholders.*
- 2. The liquidation costs shall be deducted before such distribution is made.*
- 3. The liquidator may, with the approval of the corporate person, distribute amongst the*

*stakeholders, an asset that cannot be readily or advantageously sold due to its peculiar nature or other special circumstances.*

- xi. In terms of Regulation 37(2) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 in the event of the liquidation process continuing for more than twelve months, the Liquidator shall hold a meeting of contributories of the corporate person within fifteen days from the end of twelve months from the liquidation commencement date. Accordingly, the Liquidator held a meeting of contributories on 21.08.2021, 09.04.2022 and 23.03.2023. The Applicant herein and the shareholders of the company duly attended the said meetings. It was unanimously decided that the assets of the Company under voluntary liquidation may be distributed amongst the shareholders in their respective shareholding ratio. The copy of the meeting of the contributories along with notices are attached herewith and annexed as Annexure A-9 (Colly).
- xii. That in view of the above facts and circumstances, the Applicant herein vide an agreement dated 14.04.2022 to distributed the assets of the company i.e. 92, IDC, Mehrauli Road, Gurgaon, Haryana 122002 and Flat no. 7-C, Tower 26, Central Park resorts, Sector-48, Gurgaon, Haryana 122018 having value of Rs. 3,18,45,342.00/- (Rupees Three Crore Eighteen Lakhs Forty Thousand Three Hundred Forty-Two Only) and Rs. 2,83,80,000.00/- (Rupees Two Crores Eighty-Three Lakhs Eighty Thousand Only) respectively as per the valuation report, in the shareholding ratio of the shareholders i.e. Mr. Puneet Kumar Bhutani (56%) and Mrs. Niru Bhutani (44%). The copy of the agreement of distribution of the fixed assets of the company is annexed to the application.
- xiii. The applicant company submits that in compliance with the provisions of Regulation 38 of the IBBI (Voluntary Liquidation

Process) Regulations, 2017, the Liquidator had prepared the Final Report dated 30.06.2023 and the same has been submitted in e-form GNL-2 with the Registrar of Companies and the acknowledgement of submitting the final report with IBBI ON 01.07.2023.

3. We have heard the submissions made by the Ld. Counsel and perused the documents annexed to the petition. From a perusal of the instant Application and documents annexed therewith, it is seen that the Liquidator, after his appointment has duly performed his duties and completed necessary formalities to complete the liquidation process of the Applicant Company, which has been averred in the present application and, thus, the Liquidator has prayed for an order from this Adjudicating Authority to dissolve the applicant company.
4. This Adjudicating Authority vide order dated 17.08.2023 had directed the Liquidator to file following documents/information in support of his application:
  - a. Liquidator's affidavit (after verification of books of account and other documents) that the company has not accepted or stood as guarantor or undertaken any guarantee obligation.
  - b. IBBI registration extract which shows that the company is under liquidation.
  - c. Affidavit to the effect that all tax dues have been paid as per the provisions of Income Tax Act and applicable rules made therein, in view of the winding up the company and repartition of the capital to the shareholders.

5. In compliance of order dated 17.08.2023, the Liquidator had filed an affidavit dated 09.09.2023 which is reproduced hereunder:-
- a. It is confirmed that the Liquidator has duly verified the books of account of the Company i.e., Nu-Foam Rubber Industries Private Limited and hereby state that the company has not accepted or stood as guarantor or undertaken any guarantee obligation.
  - b. It is confirmed that the copy of the IBBI registration extract which shows that the Company is under liquidation has been duly annexed to the affidavit.
  - c. It is further confirmed that all the tax dues have been duly paid as per the provisions of the Income Tax Act and applicable ruled made therein, in view of the winding up of the company and repartition of the capital to the shareholders as per applicable law.
6. During the course of proceeding dated 03.06.2024, the Ld. Counsel for the RoC has submitted that the RoC has no objection if the present application stands allowed.
7. Further, no adverse comments have been received from any statutory authority or from public at large against such dissolution of the Applicant Company, despite there being a public announcement by the liquidator and also updation of the same in the website of the Insolvency and Bankruptcy Board of India (IBBI). It is also evident from the record that the proposed liquidation was duly communicated to the Registrar of Companies, NCT of Delhi & Haryana as per Form MGT-14 and Form GNL-2 filed with the Registrar of Companies, NCT of Delhi and Haryana

and the same are also reported to have been approved. It appears that the affairs of the Applicant Company have been completely wound up and its assets have been completely liquidated and no liabilities have been left unsatisfied. We have also duly considered the merits thereof, in the light of the statutory provisions of Section 59 of the Code, 2016 read with the relevant regulations.

8. The Liquidator had filed copies of paper publication as well as copy of public announcement in Form-A. The Liquidator in compliance of Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation process) Regulations, 2017 had placed on record the Compliance Certificate in Form-H annexed with the present application.
9. Further as per record of the present case, it is seen that the Applicant Company is not found being involved in such kind of business activities, which are detrimental to the interest of the public at large. Furthermore, it is not the case that the proposed dissolution may adversely affect its shareholders/members or is contrary to the provisions of law.
10. By taking into consideration the above stated facts and circumstances, the instant Application **(C.P.(IB)/469/ND/2023) stands allowed.** Consequently, this Adjudicating Authority in exercise of power conferred to it under Section 59(8) of the Insolvency and Bankruptcy Code, 2016, orders that the Applicant Company i.e., M/s. Nu-Foam Rubber Industries Private Limited having CIN:



U74899DL1986PTC026477 shall stand dissolved with effect from the date of pronouncement this order.

11. The Liquidator is directed to communicate a copy of this order to the respondent i.e., Registrar of Companies, NCT of Delhi & Haryana, wherein the registered office of the Applicant Company is situated. Further, a copy of this order should also be communicated to the IBBI, New Delhi, for information. Such communication should be made within the stipulated period of fourteen (14) days from the date of receipt of certified copy of this order.
12. The Registry is directed to send e-mail copies of the order forthwith to the Applicant Company represented by its Liquidator and its Ld. Counsel for taking further necessary steps.

File be consigned to the records.

**Sd/-**

**DR. SANJEEV RANJAN  
MEMBER (TECHNICAL)**

**Sd/-**

**MANNI SANKARIAH SHANMUGA SUNDARAM  
MEMBER (JUDICIAL)**