

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

C.A. NO. 81 OF 2024
IN
C.P./61/ND/2021

Under Section 271, 272 and 273 of the Companies Act, 2013 read with Companies (winding up) Rules, 2020

IN THE MATTER OF:

TFM FASHION AND ENTERTAINMENT INDIA PRIVATE LIMITED
...PETITIONER

VERSUS

REGISTRAR OF COMPANIES
NCT OF DELHI AND HARYANA
...RESPONDENT

AND IN THE MATTER OF:

SANJAY AGARWAL (COMPANY LIQUIDATOR)
...APPLICANT

Order Delivered on: 15.05.2024

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM, HON'BLE MEMBER
(JUDICIAL)
DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Liquidator : Mr. Vinod Chaurasia, Adv.

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. This present application has been filed under Section 277(4) of the Companies Act, 2013 (for brevity, the 'Act') by Mr. Sanjay Agarwal (hereinafter referred as 'Applicant') who is appointed as Company Liquidator for the Petitioner Company, namely, M/s TFM Fashion and Entertainment India Private Limited has prayed for the following reliefs:-

- a. To dispense with requirement of constitution of a winding up committee as prescribed u/s 277(4) of the Companies Act, 2013 or alternatively.
 - b. To pass an order for constitution of a winding up committee to assist and monitor the progress of liquidation proceedings by the Company Liquidator in carrying out the function as provided in sub-section (5) of Section 277 in terms of Section 277(4) of the Companies Act, 2013.
 - c. Pass such other order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.
2. Briefly stated the facts of the present case as averred by the Applicant are: -
- i. This Adjudicating authority passed an order u/s 273 of the Companies Act, 2013 and appointed Mr. Sanjay Agarwal as a Provisional Liquidator in the Company Petition C.P./61/ND/2021, vide its order dated 08.06.2022 of this Tribunal.
 - ii. Further, the applicant filed an application bearing CA No. 334 of 2022 wherein the Provisional Liquidator appointed as Company Liquidator and directed to wind-up the company under the provisions of the Companies Act, 2013, vide its order dated 20.02.2024.
 - iii. It is submitted that the Applicant served the copy of order to the company/directors on 21.02.2024 in compliance to rule 17(2) of the Companies (Winding Up) Rules, 2020 read with section 20 of the Companies Act, 2013.
 - iv. The Applicant filed a copy of the order made by the Tribunal with the Registrar of Companies (ROC) in form INC-28 of the Companies (Incorporation) Rules, 2014 vide SRN No. AA6932301 dated 29-02-2024.
 - v. It is submitted that the Applicant had issued public advertisement in compliance of Rule 20 in Form WIN 14 on

- 27.02.2024 in Newspaper 'Financial Express' (English) & 'Jansatta' (Hindi) in Delhi NCR for the winding up of the company.
- vi. Further, the applicant had made public advertisement for 'notice for proving debts' in Form WIN 43 to the creditors of the Company to prove their debts or claims and to establish any title they may have on 03-03-2024 in, 'Financial Express' (English) & 'Jansatta' (Hindi) in Delhi NCR, where the registered office/ principal office of the company is situated. The last date to submit debts/claim was 17-03-2024. In pursuant to the advertisement made in WIN 43 for submitting debts/claims by creditors, the Company Liquidator/Applicant had not received any claim from creditors.
- vii. It is the plea of the applicant that as per the provisions of Section 277(4) of the Act, 2013, the Company Liquidator has to make an application to the Tribunal for constitution of a winding up committee to assist and monitor the progress of liquidation proceedings by the Company Liquidator in carrying out the function as provided in sub-section (5) and such winding up committee shall comprise of the following persons, namely: —
- i. Official Liquidator attached to the Tribunal;
 - ii. nominee of secured creditors; and
 - iii. a professional nominated by the Tribunal.
- viii. Thereafter, the Applicant submitted that as per the section 277 (4) of the Companies Act, 2013, it is stated that winding up committee shall also comprise of nominee of secured creditors, however as per the audited/un-audited books of accounts of the Company there is no secured creditors. Further as per records of the ROC, no Charge is registered on the assets of the Company and also no claim from any secured creditor is received till date against the advertisement made by the company liquidator in Form WIN 43 inviting debts/claims from creditors. Copies of Master Data & Audited Financial Statements for Financial year ended 31-03-2023 of the Company is attached herewith and marked as per "**Annexure A-6 & A-7**" respectively.

3. Having heard the applicant and perused the record, we dispose of the captioned application with the following directions: -
- a. As far as the prayer contained in the application is concerned, it being mandate of the statutory provisions, we allow the same and we hereby appoint Mr. Sanjay Agrawal, having IBBI Registration No. IBBI/IPA-001/IP-P00494/2017-18/10882, E-mail ID: ska9001@gmail.com , Address: 39, Pocket-1, Jasola, New Delhi-110025 as member of Winding up Committee. The Committee will comprise of Official Liquidator, attached to the High Court of Delhi at New Delhi, having office at 8th floor, Lok Nayak Bhawan, Khan Market, New Delhi-110001.
 - b. The committee will assist and monitor the process of liquidation proceedings as provided under the provisions of Section 277(4) of the Companies Act, 2013 and the Liquidator will further comply the provisions of Section 277(5) of the Companies Act, 2013.
 - c. The Official Liquidator shall be the convener of the meetings of the winding up committee which shall assist and monitor the liquidation proceedings in following areas of liquidation functions, namely: -
 - i. taking over assets;
 - ii. examination of the statement of affairs;
 - iii. recovery of property, cash or any other assets of the company including benefits derived therefrom;
 - iv. review of audit reports and accounts of the company;
 - v. sale of assets;
 - vi. finalization of list of creditors and contributories;
 - vii. compromise, abandonment and settlement of claims;
 - viii. payment of dividends, if any; and
 - ix. any other function, as the Tribunal may direct from time to time.
 - d. The Company Liquidator shall place before the Tribunal a report along with minutes of the meetings of the committee on monthly basis duly signed by the members present in the meeting for

consideration till the final report for dissolution of the Company is submitted before this Tribunal.

- e. The Company Liquidator shall prepare the draft final report for consideration and approval of the winding up committee.
- f. The final report so approved by the winding up committee shall be submitted by the Company Liquidator before the Tribunal for passing of a dissolution order in respect of the company.
- g. The Company Liquidator is directed to serve the copy of this Order to the Registrar of Companies, the Official Liquidator appointed by this Tribunal and all other concerned parties.
- h. With the above directions, the **C.A. NO. 81 of 2024** in C.P./61/ND/2021 is allowed and disposed of.

Sd/-

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

Sd/-

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