

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

ITEM No.305

IA/56(AHM)2024 in TP 20 of 2016(CP 51 of 2011)

Proceedings under Section 294 of companies Act 2013 r/w Rule 2020

IN THE MATTER OF:

Ravi Kapoor Liquidator of Onaex natura Pvt. Ltd

.....Applicant

.....Respondent

Order delivered on: 03/07/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

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

PRESENT:

For the Applicant :

For the Respondent :

ORDER

(Hybrid Mode)

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)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, AHMEDABAD**

**IA/56(AHM)2024
in CP(IB)/51/397-398/CLB/MB/2011(OLD)
in TP No. 20/397-398/NCLT/AHM/2016**

An Application under Section 294 of Companies Act 2013 r/w
Companies (Winding Up) Rules, 2020

In the matter of

Ravi Kapoor,

Liquidator of

Onaex natura Pvt. Ltd.

(IBBI Registration No. IBBI/IPA-002/IP-N00121/2017-
18/10290)

402, Shaival Plaza, Nr. Gujarat College,
Ellisbridge, Ahmedabad, Gujarat ,380006

... Applicant

Order Pronounced on 03.07.2024

CORAM:

SH. SHAMMI KHAN, MEMBER (JUDICIAL)

SH. SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant(s) :Mr. Tirth Nayak, Advocate

ORDER

Per: Bench.

1. The present Application is filed under under Section 294 of Companies Act 2013 r/w Companies (Winding Up) Rules, 2020 seeking Dispensation with the requirement of

the opening separate bank account for distribution, directions for approval of the Audit and Audit fees and distribution to creditors and contributories.

2. The Appellant filed the present Appeal seeking the following relief(s):

- A. *That considering the peculiar facts of the case this Hon'ble Adjudicating Authority may dispense with the requirement of opening bank account in terms of Rule 84 of the Companies (Winding Up) Rules, 2020.*
- B. *That the Hon'ble Adjudicating Authority may be pleased to issue a direction to make disbursement to creditors of the Company under Liquidation as per Annexure - D hereto*
- C. *That the Hon'ble Adjudicating Authority may be pleased to issue directions to make disbursement of surplus funds to the shareholders of the Company under Liquidation as per Annexure - E hereto;*
- D. *That this Hon'ble Adjudicating Authority may be pleased to appoint Shah and Shah Associates, Ahmedabad bearing registration number Firm Regn. No. 113742W and / or any other Auditor as this Hon'ble Adjudicating Authority may deem fit and appropriate.*

- E. That this Hon'ble Adjudicating Authority may determine the fees of the Auditor to undertake the audit of the Company in Liquidation.*
- F. That this Hon'ble Adjudicating Authority be pleased to grant such other order as may be deemed fit for liquidation process of the Company;*

3. Facts of the Case are as follows:

- I. The Applicant is the Liquidator of Onaex Natura Private Limited as appointed by this Tribunal under Section 275 of the Companies Act, 2013 (hereinafter referred to as "the Act") vide Order dated 17.01.2024 passed by this Tribunal in I.A. No. 39/NCLT/AHM /2016 and I.A. No. 87/NCLT/CHM/2017 in CP (IB) No. 51/397-398/CLB/MB/2011 (Old) in TP No. 20/397-398/NCLT/AHM / 2016.
- II. The Applicant state that the present applicant is being in furtherance of the duties under various provisions of the Act and rules framed thereunder.
- III. That Rule 84 of the Companies (Winding Up) Rules, 2020 (hereinafter referred to as "the Rules") provides

that the Applicant is to open a separate dividend account for the Company under liquidation with the sanction of the Tribunal for the purpose of depositing dividends. However, in the facts of the present case there are neither any secured assets nor any immovable assets. The only assets of the company under liquidation is the Fixed Deposits / Balance in current account with Union Bank of India. The aforesaid fact is evident from Form WIN 16 dated 5th April, 2024 [Report of the Company Liquidator under Section 281(1)] filed by the Applicant before this Tribunal.

- IV. In view of the aforesaid this Tribunal may dispense with the requirements) stated in Rule 84 of the Companies (Winding Up) Rules, 2020.
- V. Accordingly, in view of the peculiar facts and circumstances, it is submitted that this Tribunal may pass appropriate orders to dispense with the requirement of opening a dividend account as the same is not required and may result in unnecessary

delay and costs in liquidation process of the Company.

VI. The Applicant further submits that there are no secured creditors of the company under liquidation and no immovable assets. In these circumstances the Applicant submits that the Tribunal may consider issuing a directions to distribute / disburse amounts from the account of the company under liquidation to various creditors, contributories of the company under liquidation and contained in the list submitted before this Tribunal, in terms of Rules 168 to 173 of the Companies (Winding Up) Rules, 2020. The Tribunal may be pleased to consider issuing further direction (s) to the effect that any surplus amounts after disbursement to creditors and contributories be disbursed to the shareholders of the company under liquidation.

VII. The Applicant submits that, prima facie, it appears that the funds available to for disbursement to the

creditors as per the claims filed at Annexure D hereinabove are more than the claims of the Creditors.

VIII. Accordingly, it is requested that the surplus funds, after deducting the expenses incurred in the Liquidation, be permitted to be disbursed to the Shareholders of the Company in Liquidation as per the list of shareholders submitted along with Form Win 17 dated 19/02/2024.

IX. The Applicant further submits that this Tribunal be pleased to appoint Auditor in terms of Rules 95 of the Rules to undertake the Audit of the Company in accordance with Rule 91 to 96 of the Rules. It is further submitted that the current statutory auditor of the Company is Shah and Shah Associates, Ahmedabad bearing Firm Regn No. 113742W. It is further submitted that as such there have not been any substantial business which has been carried out by the Company in liquidation. It is submitted that the Tribunal may take into consideration the

aforesaid facts and determine the fees of the said Auditor as per Rule 97 of the Rules.

4. We have heard the Counsel for the applicant and on perusal of the documents submitted we have observed the following:

- The Company under liquidation does not have any physical assets other than cash in a bank account. To avoid unnecessary steps, the liquidator vide the present application has sought our permission to distribute the cash directly to creditors and shareholders based on submitted lists. The liquidator also requested the tribunal to appoint an auditor to review the company's finances before the distribution of funds.

5. In view of the above findings and observations, the Reliefs sought in prayer A to F of the Interlocutory Application No. 56 of 2024 are allowed. This tribunal vide this order gives the following directions:-

- i. This Tribunal dispense with the requirement of opening bank account in terms of Companies (Winding Up) Rules, 2020.
- ii. The liquidator is directed to make the distributions to the creditors of the Company.
- iii. The liquidator is directed to make the distributions of surplus funds to the shareholders of the Company.
- iv. We appoint Shah and Shah Associates, Ahmedabad bearing registration number 113742W as the Auditor of the Company with one time fess of Rs. 15,000/-.

6. Accordingly, the **present IA/56(AHM) 2024** in CP (IB)/51/397-398/CLB/MB/2011(OLD) in TP No. 20/397-398/NCLT/AHM/2016 is allowed and disposed off.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)

SP