

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, BENGALURU
(Through web-based Video Conferencing Platform)

C.P. (IB)No.129/BB/2023

[Application u/s 59(7) of the Insolvency and Bankruptcy Code, 2016]

IN THE MATTER OF:

Masa Concrete Plants India Private Limited

Address: Workafella Business Center,
150/1, Infantry Road,
Bengaluru – 560 001.

- Applicant

VERSUS

The Registrar of Companies, Karnataka

Ministry of Company Affairs,
'E' Wing, 2nd Floor,
Kendriya Sadana, Koramangala,
Bengaluru - 560 034.

- Respondent

Order delivered on: 10th July, 2024

Coram: 1. Hon'ble Justice (Retd.) T. Krishnavalli, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Present:

For the Applicant : Shri Chandra Shekar, PCS

ORDER

Per: BENCH

1. The instant Company Application has been filed by Masa Concrete Plants India Private Limited (hereinafter referred to as the Applicant Company) on 03.08.2023 under Section 59(7) of the Insolvency and Bankruptcy Code, 2016, *inter alia*, for dissolution of the Applicant Company, namely, Masa Concrete Plants India Private Limited with effect from the date of order by this Adjudicating Authority.
2. The averments made in the Petition are as follows:

- (a) Masa Concrete Plants India Pvt. Ltd., the Applicant Company was incorporated on 24.01.2007 under the provisions of the Companies Act, 1956, bearing CIN: U29296KA2007FTC041561 having its Registered Office at Workafella Business Centre, 150/1, Infantry Road, Bengaluru- 560001. The Authorized Capital of the Corporate Person is Rs.10,00,000 and the issued, subscribed, and paid-up share capital of the Corporate Person is Rs.10,00,000/- divided into 1000 Equity Shares of Rs.1,000/- each. The main objects of the Company is to carry on the business of manufacturing, warehousing, importing, exporting, trading (wholesale and retail) distributing, exchanging, converting, altering, processing, installation, startup services, after sale services, supply management for MASA quality concrete block-making machines, machine tools and maintenance and repair of its product, etc.
- (b) After the initial years, the Corporate Person was unable to carry out the business operations due to economic slowdown and resultant market conditions. In the light of this background, the management of the Corporate Person thought fit that it was advisable to wind up the Corporate Person, since there were no foreseeable prospect of starting the business in the near to mid-terms future. However, the Corporate Person has been meeting its statutory obligations. Accordingly, the **Declaration of Solvency** was taken from the majority of the Directors, and it was also approved in the Board meeting held on 22.12.2021. Further, the Directors have filed Affidavit containing Declaration of Solvency stating that the Company will be able to pay its debt in full from the proceeds of assets to be sold in the voluntary liquidation and the Company is not being liquidated to defraud any person.
- (c) The Company in its Extraordinary General Meeting held on 22.12.2021 passed a **Special Resolution to liquidate the Company voluntarily**, and appointed Ms. Anagha Anasingaraju, IP,

to act as Liquidator of the Company. The copy of the same is attached to the Petition marked as Annexure 5.

- (d) The Audited Financial Statements of the Company as on 31.03.2020 & 31.03.2021 along with Auditor's Report has been filed. The copy of the same is attached to the Petition marked as Annexure 3.
- (e) The commencement of liquidation and appointment of liquidator is intimated to the RoC in form MGT-14 on 29.12.2021 and GNL-2 (for submissions of documents) on 15.02.2022. The Public Announcement was simultaneously submitted to IBBI to place the same on its website.
- (f) It is submitted that as per **Regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017** the Liquidator made a Public Announcement of commencement of liquidation in Form A, in 'Financial Express', English Newspaper and 'Vishwavani', Kannada Newspaper on 25.12.2021, seeking submission of the claim by Stakeholders on or before 21.01.2022. The copy of the Public Announcement is attached to the Petition marked as Annexure 7.
- (g) It is further submitted that as per **Regulation 30 of the IBBI (Voluntary Liquidation Process) Regulations, 2017** the Applicant did not received any claim in response to the Public Announcement till the last date of submission of claim as mentioned in the Public Announcement i.e. 21.01.2022.
- (h) It is submitted that as per **Regulation 9 (1) of Chapter IV of the IBBI (Voluntary Liquidation Process) Regulations, 2017** the Liquidator submitted the preliminary report to the Company on 05.02.2022. The copy of the same is attached to the Petition marked as Annexure 12.
- (i) It is also submitted that as required under **Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017** the

liquidator opened a new Bank Account on 12.05.2022 in the name of the Company with IndusInd Bank, Kothrud, Pune , for Liquidation purposes.

- (j) It is submitted that as per **provisions of Section 178 of the Income Tax Act, 1961**, the Applicant intimated the commencement of liquidation and appointment of liquidator to the Income Tax Authority on 14.03.2022.
- (k) Further, the Applicant intimated the commencement of liquidation to various government authorities like Service Tax, GST and Professional Tax Authority on 20.01.2022. In response to the same, the Applicant did not received any objection or claim from any of the authorities.
- (l) It is also submitted that from the Bank balance available with the Liquidation account, made necessary payments being part of the liquidation cost. Further, on making all the payments as part of the liquidation cost, there was no surplus amount available for distribution amongst the shareholders.
- (m) It is submitted that the Liquidator has closed the Bank Account on 05.04.2023.
- (n) It is also submitted that as per **Regulation 38 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017** the Liquidator had the Accounts audited for the liquidation period and prepared the Final Report on 26.04.2023. In connection with the Accounts of the liquidation, the CA Certificate showing receipts and payments pertaining to liquidation since the liquidation commencement date i.e. 22.12.2021 to 10.04.2023 has been computed in following manner:

Sl. No.	Receipt	Amount (Rs.)	Amount (Rs.)	Sl. No	Payments	Amount (Rs.)	Amount (Rs.)
1	Opening Balance as on LCD			1	Bank Charges		16,990.58
	Axis Bank	39,45,362.98		2	GST on Bank Charges		126.00
	Canara Bank	72,524.60		3	Professional Fees paid		16,81,040.00
	FD with Canara Bank	5,63,001.00	45,80,888.58	4	Audit Fees		79,800.00
2	Income Tax refund- AY 21-22		2,740.00	5	Office Rent		65,620.00
3	Interest on FD with Canara Bank		3,054.00	6	Gratuity and staff benefit		2,04,491.00
4	Conversion from Euro A/c		3,194.00	7	Public Announcement		16,926.00
				8	Income Tax paid		21,28,716.00
				9	TDS paid		1,08,487.00
				10	Reimbursement of filing fees etc.		17,680.00
				11	Liquidator's fee		2,70,000.00
	Total		45,89,876.58				45,89,876.58

- a. It is also submitted that the Final Report of the Liquidating Company was submitted IBBI on 27.04.2023. The Applicant has submitted a request letter to the Respondent for submission of the final report and filing of form GNL-2 on 30.05.2023.
3. Heard Shri Chandra Shekar, Ld. PCS for the Applicant/Liquidator.
4. Section 59 of the Code reads as follows:-

Section 59-

“(1) A corporate person who intends to liquidate itself voluntarily and has not committed any default may initiate voluntary liquidation proceedings under the provisions of this Chapter.

(2) The voluntary liquidation of a corporate person under sub-section (1) shall meet such conditions and procedural requirements as may be specified by the Board.

(3) Without prejudice to sub-section (2), voluntary liquidation proceedings of a corporate person registered as a company shall meet the following conditions, namely: -

(a) a declaration from majority of the directors of the company verified by an affidavit stating that –

(i) they have made a full inquiry into the affairs of the company and they have formed an opinion that either the company has no debt or that it will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation; and

(ii) the company is not being liquidated to defraud any person;

(b) the declaration under sub-clause (a) shall be accompanied with the following documents, namely: -

(i) audited financial statements and record of business operations of the company for the previous two years or for the period since its incorporation, whichever is later;

(ii) a report of the valuation of the assets of the company, if any prepared by a registered valuer;

(c) within four weeks of a declaration under sub-clause (a), there shall be –

(i) a special resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily and appointing an insolvency professional to act as the liquidator; or

(ii) a resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily as a result of expiry of the period of its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company shall be

dissolved, as the case may be and appointing an insolvency professional to act as the liquidator:

Provided that the company owes any debt to any person, creditors representing two thirds in value of the debt of the company shall approve the resolution passed under sub clause (c) within seven days of such resolution.

(4) The company shall notify the Registrar of Companies and the Board about the resolution under sub-section (3) to liquidate the company within seven days of such resolution or the subsequent approval by the creditors, as the case may be.

(5) Subject to approval of the creditors under sub-section (3), the voluntary liquidation proceedings in respect of a company shall be deemed to have commenced from the date of passing of the resolution under sub-clause (c) of sub-section (3).

(6) The provisions of sections 35 to 53 of Chapter III and Chapter VII shall apply to voluntary liquidation proceedings for corporate persons with such modifications as may be necessary.

(7) Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate person.

(8) The Adjudicating Authority shall on an application filed by the liquidator under 76 sub-section (7), pass an order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(9) A copy of an order under sub-section (8) shall within fourteen days from the date of such order, be forwarded to the authority with which the corporate person is registered”.

5. On examining the submissions made by the Ld. PCS for the Applicant and after perusing the documents annexed to the Application, it appears that the affairs of the Corporate Person have been completely wound up and

the assets of the Applicant Company have been completely liquidated and as such the Applicant Company deserves to be dissolved. Accordingly, in exercise of the powers conferred under Section 59(8) of IBC, 2016, we hereby order the dissolution of **Masa Concrete Plants India Pvt. Ltd.** and the Applicant Company shall stand dissolved from the date of this order.

6. Accordingly, the Company Petition bearing **C.P.(IB)No.129/BB/2023 stands allowed.**
7. The Registry and the Liquidator is directed to serve a copy of this order upon RoC and IBBI within fourteen days from the date of receipt of copy of this order.

-Sd-
MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

-Sd-
T. KRISHNAVALLI
MEMBER (JUDICIAL)