

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, BENGALURU
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)

C.P. (IB) No. 08/BB/2023
U/s 59(7) of the IBC, 2016
R/w Rule 11 of the NCLT Rules, 2016

IN THE MATTER OF:

Acendre India Pvt. Ltd.

Represented by Mr. M.V. Sudarshan,

Liquidator of Acendre India Pvt. Ltd.

No.42, 27th Cross Road,

Stage II, Banashankari,

Bangalore - 560 070.

- Applicant

Order delivered on: 24.08.2023

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

Parties/Counsels Present:

For the Applicant : Shri Hemanth R. Rao

ORDER

Per: T. Krishnavalli, Member (Judicial)

1. The instant Company Petition is filed on 12.10.2022 by Acendre India Pvt. Ltd., represented by Mr. M.V. Sudarshan, Liquidator of Acendre India Pvt. Ltd. under Section 59(7) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of the NCLT Rules, 2016 by *inter alia* seeking a direction for dissolution of the Corporate Person/ the Company, namely, Acendre India Pvt. Ltd. with effect from the date of order by this Adjudicating Authority.
2. **Acendre India Pvt. Ltd.** (hereinafter referred to as 'Corporate Person/the Company') is a Company incorporated on 03.02.2016 under the provisions of the Companies Act, 2013. Its Authorized Capital is Rs.1,00,000/- (Rupees One

Lakh Only) divided into 10,000 equity shares of Rs.10/- (Rupees Ten Only) each.

3. The following averments have been made in the Petition:
 - i. It is stated that the Company convened a meeting of Board of Directors on 02.12.2021 wherein the Board of Directors approved the **Declaration of Solvency** as stipulated under Section 59(3) of the Code which was later duly signed and verified by affirmation. The Directors of the Company in compliance of Section 59(3) of the Code, r/w Regulation 3(4) of the IBBI (Voluntary Liquidation Process) Regulations, 2017 have given declarations. Further, the Directors have declared that they have made full inquiry into the affairs of the Company and have formed the opinion that this Corporate Person has no debts or if claimed during the liquidation process, the Company will be able to pay its debts in full out of the proceeds of realisation from liquidation of in voluntary liquidation process within a period of six months from the date of commencement of liquidation process and the Corporate Person is not being liquidated for defrauding any creditors, Government, and other company, firm and other person.
 - ii. The Company held an Extra-Ordinary General Meeting on 15.12.2021 and passed a **Special Resolution to voluntarily liquidate the Company** and appoint Mr. M. V. Sudarshan, Insolvency Professional, having registration number IBBI/IPA-002/IP-N00561/2017-2018/11707 to act as a Liquidator for the same.
 - iii. It is also stated that the intimation regarding commencement of Voluntary Liquidation Process was given to IBBI for their information and perusal. The publication of Public announcement was also duly notified to the IBBI for publication on the website.
 - iv. The audited Financial Statements of the Company for the year 2019-2020 and 2020-2021 (page nos.67-133 of the Petition) along with the Auditor's Report has been filed by the Petitioner.

- v. The commencement of Liquidation and appointment of Liquidator was intimated to the ROC in form MGT-14 and GNL-2 on 16.12.2021 (for submission of documents).
- vi. **Public Announcement (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 "Hosadigantha", Kannada Newspaper on 17.12.2021 seeking submission of the claim by Stakeholders on or before 14.01.2022.
- vii. **List of stakeholders (Regulation 30 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The last date of submission of claims, if any was 14th January 2022. No claims were received from any creditors, employees, Government bodies etc. and on the verification of books, there was no due to any creditors of the Company. Hence, the Liquidator has not made any payment to the Creditors.
- viii. **Preliminary Report, (Regulation 8 (1) of Chapter IV of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Liquidator submitted the preliminary report to the Company on 19.01.2022.
- ix. **Opening of Bank Account (Regulation 34 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Bank account was opened with HDFC Bank and the said account was closed on 14.10.2022.
- x. **As per provisions of Section 178 of Income Tax Act, 1961** - The Liquidator has intimated the commencement of Liquidation and appointment of Liquidator to the Income Tax Authority on 22.12.2021. With regard to the NOC from Income Tax Dept., it is stated that there is no requirement of NOC from Income Tax Dept. and it is not applicable by virtue of IBBI circular dated 15th November 2021.
- xi. **Final Report - (Regulations 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017)** - The Liquidator had the accounts audited for

the liquidation period and submitted his final report on 26.09.2022. In connection with the accounts of the liquidation, the CA Certificate showing receipts and payments account of the Company under liquidation from 16.12.2021 to 23.09.2022 has been completed in following manner:

Sr. No.	Particulars	Amount (Rs.)	Amount (Rs.)
1.	Opening Balance		
	a. Cash in hand	12,212	
	b. Bank	1,37,59,912	
	c. Term Deposit	15,22,271	
	d. Total Opening Balance		1,52,94,395
2.	Receipts		
	a. Interest	1,41,125	
	b. Others-Receipts from Statutory Authorities	44,00,778	
	c. Realization of dues/debtors	2,28,76,485	
	d. Total Receipt		2,74,18,388
3.	Total of opening balance and receipt (1+2)		4,27,12,738
4.	Payments		
	a. Employees Benefits	57,31,814	
	b. Office Rent and Maintenance	5,35,338	
	c. Accounting and Compliance & Audit Fee	17,98,815	
	d. Liquidator's Fee	18,59,700	
	e. Liquidation Expenses		
	• Public Announcement	33,619	

	• Transaction Audit Fee	1,50,000	
	• Travelling and Ors.	2,21,216	
	• Legal Fee	29,500	4,34,335
	f. Statutory Dues-Tax	5,80,000	
	g. Director's Fee	17,58,200	
	h. Dividend Repatriation	2,98,97,728	
	i. Equity Repatriation	1,00,000	
	j. Bank charges	16,453	
	k. Others	400	
	l. Total Payment		4,27,12,783
5.	Closing Balance		
	a. Total Closing Balance		
6.	Total Closing Balance and payments (4+5)		4,27,12,783

xii. The final report of the Liquidating Company was submitted with the ROC and IBBI on 26.09.2022.

4. Heard the learned Counsel for the Applicant. We have carefully perused the pleadings of the party and extant provisions of the Code, and the Regulations made thereunder.

5. The Adjudicating Authority *vide* order dated 13.02.2023 directed the Liquidator as under:

"The Petitioner is directed to file the List of Stakeholders & Bank Statement of previous two years prior to commencement of liquidation."

6. In compliance to the above, the Liquidator has filed the requisite documents, namely, List of Stakeholders and Bank Statement from 05.09.2020 till 19.09.2022, vide diary no.1770 dated 28.03.2023 and the same is on record.

7. Subsequently, vide order dated 23.05.2023, the Petitioner was directed to file in respect of the TDS Regulations under Income Tax Act, 1961 for the dividend paid to Foreign Company.
8. Pursuant to the above, the Petitioner has filed memo vide diary no.2893 dated 02.06.2023, wherein as regards TDS, it is stated that the Liquidator has distributed the dividend three times during the period of voluntary liquidation process and the Liquidator has taken due care to deduct the TDS as per Income Tax Act, 1962, remitted the tax to the Government and also obtained Form Nos.15CA and 15CB before affecting the dividend.
9. According to the above discussion, the affairs of the Corporate Person have been completely wound up and its assets have been liquidated and nothing remains to be liquidated. Thus, the compliances of Section 59 and other relevant provisions of the IBC, 2016 r/w. Regulation 37(2) of IBBI (Voluntary Liquidation Process) Regulations, 2017, from the date of commencement of the liquidation proceedings is completed. Hence, we are of the considered opinion that the corporate person, through its Liquidator, has been voluntarily liquidated.
10. In view of the foregoing **Acendre India Pvt. Ltd.**, Applicant Company is hereby dissolved with effect from the date of the present order. A copy of this order be filed with the ROC within the fourteen days.
11. The Petition **C.P. (IB) No.08/BB/2023** is accordingly allowed in the above terms.

Sd/-
(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

Sd/-
(T. KRISHNAVALLI)
MEMBER (JUDICIAL)