

NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT- II)

Company Petition (IB)-01/CHD/PB/2019

IN THE MATTER OF:

Phoenix Yarns Private Limited

Through its Liquidator

Sh. Rajiv Khurana

L.G.F. 66, City Palace

Chowri Sarak, Ludhiana

Punjab - 141008

...Applicant/ Voluntary Liquidator

**Section: 59(7) of IBC, 2016 read with IBBI (Voluntary Liquidation
Process) Regulation, 2017**

Judgement Delivered on: 24.04.2024

CORAM:

SH. HARNAM SINGH THAKUR, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Mr. Arora Vishwas Kumar, Advocate

Judgement

PER: SH. HARNAM SINGH THAKUR, MEMBER (J)

&

SH. L. N. GUPTA, MEMBER (T)

The present petition CP(IB) No.01/Chd/Pb/2019 is filed by the Applicant/Liquidator of the Corporate Person under Section 59(7) of the

IBC, 2016 read with Insolvency Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (for brevity, the “**VLP Regulations**”) with a prayer for dissolution of the Corporate Person namely, Phoenix Yarns Private Limited (for brevity, the ‘**Company**’).

2. Phoenix Yarns Private Limited is a Company incorporated on 12.08.2013 under the Companies Act, 2013 with CIN U17290PB2013PTC037821. The registered office of the company is situated at L.G.F. 66, City Palace, Chowri Sarak, Ludhiana, Punjab-141008, falling within the territorial jurisdiction of this Tribunal.

3. It is stated by the Applicant that the Voluntary Liquidation Process (VLP) under the provisions of IBC, 2016 and VLP Regulations was commenced by the Company by passing a Special Resolution in the Annual General Meeting (AGM) of its members held on 27.06.2018, which is the date of voluntary liquidation commencement. It is further submitted that Mr. Rajeev Khurana, IP was appointed to act as Liquidator in the aforesaid AGM. Further, it is stated that as per Proviso to Section 59(3)(c) of the Code, the consent of the creditors representing more than 2/3rd in value was taken in this regard within 7 days of the said AGM. The scanned copy of the said Special Resolution is reproduced overleaf for a ready reference :

A-6

PHOENIX YARNS PRIVATE LIMITED
Registered Office: L.G.F 66, City Palace, Chowri Sarak,
Ludhiana, PIN: 141008, Punjab
CIN: U17290PB2013PTC037821

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CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE ANNUAL GENERAL MEETING OF MEMBERS OF PHOENIX YARNS PRIVATE LIMITED HELD ON 27th DAY OF JUNE, 2018 AT 11:00A.M., AT THE REGISTERED OFFICE OF THE COMPANY

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APPROVAL FOR WINDING UP OF THE COMPANY AND APPOINTMENT OF LIQUIDATOR

"RESOLVED THAT pursuant to the provision of Section 59 of the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy, Board of India (Voluntary Liquidation Process) Regulation, 2017 or any amendment thereto subject to the order of National Company Law Tribunal, Chandigarh-Bench, the consent of the members of the Company be and is hereby accorded to wind up the affairs of the company."

"RESOLVED FURTHER THAT pursuant to the provision of Section 59(5) of the Insolvency and Bankruptcy Code, 2016 and as may be applicable and upon the passing of this Special Resolution a Voluntary Winding up shall be deemed to commence."

"RESOLVED FURTHER THAT pursuant to the provisions of Section 59 of the Insolvency and Bankruptcy Code, 2016, approval of the shareholders be and is hereby granted for the appointment of Mr. Rajiv Khurana, Chartered Accountant as 'the Liquidator of the company' for the purpose of winding up of the affairs of the company."

"RESOLVED FURTHER THAT the consent of the members of the company be and is hereby accorded to sanction the remuneration of liquidator of Rs. 30,000/- only (Rupees Thirty thousand only) in addition to the actual out of the pocket expenses for the winding up of the affairs of the company."

"RESOLVED FURTHER THAT Mr. Rajiv Khurana, Chartered Accountant, the Liquidator be and is hereby authorised to exercise all the powers as per the provisions of the Insolvency and Bankruptcy Code, 2016 to effectively wind up the affairs of the company."

"RESOLVED FURTHER THAT notwithstanding the appointment of Liquidator, the Board of Directors of the company be and are hereby duly and severally authorised to exercise all powers in consideration with the liquidation of the company included but not limited to filing of statement of affairs with the liquidator, filing of return with the Registrar of Companies,

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PHOENIX YARNS PRIVATE LIMITED
Registered Office: L.G.F 66, City Palace, Chowri Sarak,
Ludhiana, PIN: 141008, Punjab
CIN: U17290PB2013PTC037821

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filling up of vacancy in the office of liquidator and to do all such acts, deeds and things as may be required to implement the aforesaid decisions and such other matters incidental to the liquidation of the Company."

FOR M/S PHOENIX YARNS PRIVATE LIMITED

Vinay Singal

VINAY SINGAL
DIRECTOR
DIN: 00064236

Date: 27-06-2018
Place: LUDHIANA

Me

4. The Applicant has submitted that all the Directors of the Company have given Declarations of Solvency on Affidavits stating that “(i) A full inquiry was made into the affairs of the company and based on the inquiry the Director have formed an opinion that the Company has no debts as on 31.03.2018, (ii) The Company is not being liquidated to defraud any person.” The Affidavits of Declarations of Solvency by all the Directors are reproduced below, for the immediate reference:



पंजाब PUNJAB

AA 633343

AFFIDAVIT VERIFYING THE DECLARATION OF SOLVENCY

I, Pardeep Kumar Aggarwal son of Sh. Dharam Veer aged about 48 years resident of 9, Janpath Villas, Canal Road, Jhamat Ludhiana - Pin: 142027 Punjab respectively do solemnly affirm and say as follows:-

1. I am Director of M/s Phoenix Yarns Private Limited, a company registered under the Companies Act, 1956 and having its Registered Office at L.G.P 66, City Palace, Chowri Sarak, Ludhiana, Punjab.
2. That the statements made in the Declaration of Solvency as per Section 59(3)(a) of the Insolvency and Bankruptcy Code, 2016, are based on the information derived from the records of the Company and are made true to the best of our knowledge and belief.



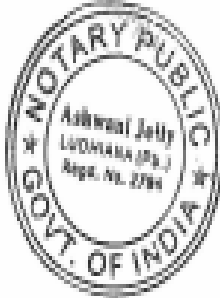
That I have made full inquiry into the affairs of the Company and have formed an opinion that the company has no debts as on 31/03/2018.

That the company is not being liquidated to defraud any person.

5. That the information given under Para No. 1 to 4 is true and correct to the

best of our knowledge and belief and that it conceals nothing and that no part of it is false.

FOR M/S PHOENIX YARNS PRIVATE LIMITED



Place:-Ludhiana
Date: 04-06-2018

PARDEEP KUMAR AGGARWAL
DIRECTOR
DIN: 03523490

Certified that the affidavit SPA / GPA has been read over & explained to the deponent executant who seemed directly to understand the same at the making thereof,

VERIFICATION

Verified at Ludhiana on 04-06- 2018 that the contents the above affidavit, are true to my knowledge being based on the official records available with the applicant. Nothing is false and nothing material has been suppressed by me.

FOR M/S PHOENIX YARNS PRIVATE LIMITED

Attested as Identified

Notary Public
Distt. Courts, LDH (Pb)

04 JUN 2018 04 JUN 2018

PARDEEP KUMAR AGGARWAL
DIRECTOR
DIN: 03523490

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पंजाब पंजाब PUNJAB

RA 633342

AFFIDAVIT VERIFYING THE DECLARATION OF SOLVENCY

Vinay Singal, son of Sh. Dharam Pal Gupta aged about 56 years resident of 70-A Aggar Nagar, Ludhiana, PIN:141001, Punjab respectively do solemnly affirm and say as follows: -

1. I am Director of M/s Phoenix Yarns Private Limited, a company registered under the Companies Act, 1956 and having its Registered Office at L.G.F 66, City Palace, Chowri Sarak, Ludhiana, Punjab.
2. That the statements made in the Declaration of Solvency as per Section 59(3)(a) of the Insolvency and Bankruptcy Code, 2016, are based on the information derived from the records of the Company and are made true to the best of our knowledge and belief.
3. That I have made full inquiry into the affairs of the Company and have formed an opinion that the company has no debts as on 31/03/2018.

That the company is not being liquidated to defraud any person.

That the information given under Para No. 3 to 4 is true and correct to the




best of our knowledge and belief and that it conceals nothing and that no part of it is false.

FOR M/S PHOENIX YARNS PRIVATE LIMITED



Place: Ludhiana
Date: 04.06.2018

Certified that the affidavit SPA / DPA has been read over & explained to the dependent executant who stands strictly to understand the same at the making thereof.



VINAY SINGAL
DIRECTOR
DIN: 00064236

VERIFICATION

Verified at Ludhiana on 04.06.2018 that the contents the above affidavit, are true to my knowledge being based on the official records available with the applicant. Nothing is false and nothing material has been suppressed by me.

FOR M/S PHOENIX YARNS PRIVATE LIMITED

Attested as Identified


Notary Public
Dist. Courts, LDH (Pb.)
4/6/2018


VINAY SINGAL
DIRECTOR
DIN: 00064236

10 4 JUN 2018

5. It is further submitted by the Applicant that a certified copy of the said Special Resolution passed in the Annual General Meeting of the Members of the Company held on 27.06.2018 was filed by the Company with IBBI and ROC in Form MGT-14 on 03.07.2018 and 04.07.2018, respectively and Declaration of Solvency by the Directors as required under Section 59(3) of IBC 2016 in Form GNL 2 on 04.07.2018.

6. It is stated that the Applicant then issued an advertisement for voluntary liquidation in “Form A-Public Announcement” in terms of Regulation 14 of the VLP Regulations 2017 in the Financial Express (English) and Rozana Spoksmen (Punjabi) Newspaper on 02.07.2018.

7. The Applicant has annexed the Financial Statements for the Financial Years ending 2017-18 with the application.

8. It is further stated by the Applicant that it had opened an account by the name of “Phoenix Yarns Private Limited (In Liquidation)” with Allahabad Bank, Chandigarh for the purpose of realisations and payments during the period of liquidation.

9. It is stated by the Applicant that it had submitted the Preliminary Report to the Company on 03.08.2018. The Applicant has submitted its Final Report dated 12.12.2018 in compliance of Regulation 38 of VLP Regulations giving details of the distribution of assets amongst the stakeholders. A copy of the Report is also stated to have been filed with the ROC. The relevant extracts of the Report reflecting Receipts and Payments of the company are reproduced below:

Receipts & Payment Account	
Receipts	
Particulars	Amount
Opening Balance as on Liquidation Commencement Date:	
a) Cash in Hand	₹ 1,500
b) Balance with Bank	₹ 58,622
Received from JVR Enterprises	₹ 44,25,000
Received from K Lall Overseas Pvt Ltd	₹ 41,50,000
Total	₹ 86,35,122
Payments	
Particulars	Amount
Paid for:	
Bank Charges	₹ 456
Advertisement Expenses	₹ 33,519
Advocate's Fee	₹ 11,006
Professional Charges	₹ 30,000
Auditor's Fee	₹ 11,000
Dividend Distribution Tax	₹ 27,065
Income Tax Paid (Old Outstanding)	₹ 3,247
Payment to Raj Mittal (Old Outstanding)	₹ 30,520
Payment to Harish Kumar (Old O/s for Auditor's Fees)	₹ 15,000
Payment to Vinay Singal (Share Capital)	₹ 50,50,000
Payment to Pardeep Kumar (Share Capital)	₹ 33,00,000
Payment to Pardeep Kumar (Premium)	₹ 48,606
Payment to Vinay Singal (Premium)	₹ 74,703
Total	₹ 86,35,122

10. The Applicant has submitted that it has paid off all the liabilities of the Company. The details of distribution as given in Form H, is reproduced below:

Sl. No.	Stakeholders* under section 52 and 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Realization of Security Interest [Sec. 52(1)(b)]	0	0	0	0	NIL
2	Liquidation Cost [Sec. 53(1)(a)]	1,13,046	1,13,046	1,13,046	100	
3	Workmen's Dues [Sec. 53(1)(b)(i)]	0	0	0	0	NIL
4	Debts of Secured Creditors [Sec. 53(1)(b)(ii)]	0	0	0	0	NIL
5	Wages and Unpaid Dues to Employees [Sec. 53(1)(c)]	0	0	0	0	NIL
6	Debts of Unsecured Financial Creditors [Sec. 53(1)(d)]	0	0	0	0	NIL
7	Government Dues + Amount Unpaid following Enforcement of Security Interest [Sec.53(1)(e)]	3,247	3,247	3,247	100	Income Tax
8	Any remaining Debts and Dues [Sec. 53(1)(f)]	45,520	45,520	45,520	100	Operational Creditor (Audit Fee)
9	Preference Shareholders [Sec. 53(1)(g)]	0	0	0	0	NIL
10	Equity Shareholders [Sec.53(1)(h)]	Admitted as per Books of Accounts		84,73,309	97.73	
Total		86,35,122	86,35,122	86,35,122		

11. It is further submitted by the Applicant through Form-H filed on 07.03.2024 vide diary no. 00872 that after the payment of Government

dues and the surplus/residual amount to the members/equity shareholders of the Corporate Person, the bank account of the Corporate Person has been closed and thus, the liquidation process stood completed.

12. The ROC has filed its report on 16.05.2019 and has not raised any objection. The operative portion of the ROC's Report is reproduced below, for the immediate reference:

"... it is to be stated that this office has no objection to dissolution of the subject company."

13. IBBI filed its reply dated 26.04.2022 vide diary no. 01196/3 and has not raised any objections to the dissolution of the company.

14. On examining the Application, documents annexed therewith and the submissions made by the Voluntary Liquidator, it emerges that the affairs of the Company have been completely wound up, and its assets completely liquidated and there is no litigation pending against the Company.

15. In the light of the documents and facts placed on record, averments and the submissions made by the Applicant/Voluntary Liquidator, the Company deserves to be dissolved. **Accordingly, this Tribunal directs that the Company shall be dissolved from the date of this Order.**

16. **The Petition stands Allowed accordingly.**

17. In terms of Regulation 41 Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, the Applicant/Voluntary Liquidator shall preserve copies of all such records, which are required to give a complete account of the voluntary liquidation process. Further, the Applicant/Liquidator shall preserve a physical or an electronic copy of the reports, registers and books of account referred to in Regulations 8 and 10 for at least eight years after the dissolution of the corporate person, either with himself or with an information utility.

18. The Applicant is directed to serve the copy of this Order upon the Registrar of Companies (ROC), with whom the Company is registered, within fourteen days of receipt of this Order. The ROC shall act as necessary upon receipt of a copy of this Order.

Sd/-

(L. N. GUPTA)
MEMBER (T)

April 24, 2024
ASG

Sd/-

(HARNAM SINGH THAKUR)
MEMBER (J)