

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

C.P.(IB)/560/ND/2021

[Under section 59 of the Insolvency & Bankruptcy Code, 2016 r/w the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017]

In the matter of:

M/s. Swarup Auto Private Limited

CIN: U74899DL1984PTC019328

Through Mr. Gagan Gulati, Liquidator

... Applicant Company

Order Delivered on: 02.05.2024

CORAM:

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM, HON'BLE MEMBER
(JUDICIAL)**

DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Ms. Yogita Bhatia, CS, Mr. Gagan Gulati

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. The instant application has been filed by the Liquidator Mr. Gagan Gulati, on behalf of M/s. Swarup Auto Private Limited ("Applicant Company") bearing CIN: U74899DL1984PTC019328 under Section 59 of the Insolvency & Bankruptcy Code, 2016 ("Code") read with the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 ("Voluntary Liquidation Regulations") seeking the following prayer(s): -
 - a) Pass an order for dissolution of the Company in terms of Section 59 and other applicable provisions of the Insolvency and Bankruptcy

Code, 2016 (“Code”) read with Regulation 38 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (“Regulations”).

b) To pass such order or further order(s) as this Hon'ble Tribunal may deem fit and proper in the circumstances of the Present matter.

2. The brief facts, giving rise to filing of the instant Application, which are just and necessary for adjudication, are narrated hereunder: -

- i. The Applicant Company i.e., M/s. Swarup Auto Private Limited is a private limited company incorporated on 14.11.1984 under the provisions of the Companies Act, 1956 having CIN: U74899DL1984PTC019328 and registered office situated at 902/290 Gali-3 Village Shalimar Delhi-110052. The Applicant Company submits that since its incorporation it was engaged in the business of sale and purchase of Automobiles parts including Tractor and other Machinery parts and Tools including Machine Tools and accessories.
- ii. The Applicant Company submits that the Board of Directors in their meeting held on 11th August, 2020 had approved the resolution for voluntary liquidation of the Applicant Company and appointment of Liquidator and directors of the Applicant Company had signed the declaration of solvency of the Applicant company on 6th August, 2020 in compliance with the provisions of Section 59(3) of the Code, 2016.
- iii. The Applicant Company submits that the e-form MGT-14 has been filed with the ROC on 19th August, 2020.
- iv. The Applicant Company submits that the meeting of shareholders of the company in the Extra Ordinary General Meeting (EGM) was held on 05.09.2020 wherein a special resolution relating to voluntary winding up of the company and

appointment of Mr. Gagan Gulati, Insolvency Professional [IBBI/IPA-002/IP-N00893/2019-2020/12832] as Liquidator who has given his consent to act as Liquidator was passed. The special resolution duly notified to the ROC in the e-form MGT-14 vide SRN R55120794 dated 11.09.2020 has been filled which is on record.

- v. The Declaration of Solvency has been filed with the ROC along with the audited financial statements for the year 2018-2019 and 2019-2020 in the e-form GNL-2 vide SRN R66504242 on 10th October, 2020. Further, the Notice of Extra-Ordinary General Meeting along with Public Announcement has been filed with the ROC. The Certified True Copy of the E-Form GNL- 2 along with Challan as filed with ROC dated 12th September, 2020.
- vi. The Applicant Company submits that the intimation was sent to IBBI and ICSI via mail in regard to the appointment of Liquidator in Swarup Auto Private Limited (in voluntary liquidation).
- vii. The Applicant Company submits that there is no objection certificate given by all the Creditors and the Shareholders in regard to the proposed Voluntary Liquidation of Swarup Auto Private Limited. The same is on record.
- viii. The Applicant Company submits that as per Regulation 14 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, public announcement in Form A of schedule I was published in the “Financial Express” English and “Jansatta” in Hindi (Regional Language) on 08.09.2020, being the newspaper having circulation in the State of Delhi inviting claims of stakeholders, if any, and to submit their claim within 30 days from the date of commencement of liquidation. The applicant company further submits that the copy of the publication was also forwarded to the Insolvency and Bankruptcy Board of India for publication on its website and to ICSI IIP for its reporting/information.

- ix. The Applicant Company submits that the liquidator had received the claims from the Operational Creditors and other stakeholders and verified the same. It further submits that the liquidator has made all the payments to the stakeholders during the liquidation period in due compliance of provisions of the code. The original list of stakeholders as well as revised and modified list of stakeholders sent to the IBBI. The same is on record.
- x. The Applicant Company submits that in compliance of the Regulation 9 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 the Liquidator had prepared on 12.10.2020 and submitted preliminary report to the Board of Directors of the Company on 14.10.2020
- xi. In terms of provisions under Income-tax Act, 1961 and GST Act, 2017 the Liquidator had sent letter dated 25th September, 2020 to the Income Tax Officer and GST Officer regarding the initiation of the Voluntary Liquidation Process. Further, the mail has been received from the Income Tax Officer wherein stated that there is no demand outstanding against the company. The same is on record.
- xii. The Applicant Company submits that the final receipts by the Creditors and Shareholders in respect to the Claim amount received are on record. It further submits that one of the Shareholder i.e., Sharic Auto Clutch Private Limited has been under the process of Striking off after the initiation of Voluntary Liquidation Process i.e. after 05.09.2020. Furthermore, the amount of the contribution to the shareholder cannot be distributed due to their status. Hence, the deposit of undistributed proceeds has been transferred to the IBBI-Corporate Voluntary Liquidation Account. The details of the same is reproduced hereunder: -

B. Details of Stakeholders entitled to Unclaimed Dividends or Undistributed Proceeds

Sl. No.	Name of stakeholder entitled to receive unclaimed dividends or undistributed proceeds	Address, phone number and email address of the stakeholder	Identification Number of the stakeholder (PAN, CIN/LLPIN/DIN, Aadhaar No.) (Please attach Identification proof.)	Amount due to the stakeholder (Rs.)	Nature of Amount due	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
I	Sharic Clutch Auto Pvt. Ltd	Regd. Add.: B123,Chander Nagar A-Block Janak Puri New Delhi-110058; Ph. No.: 9215921151; E-mail: tusharjain@frictionproducts.com	U74899DL1994PTC058321	1,47,537/-	Other Stakeholder/Contributory (Equity Shareholder)	---


C. Details of Deposit made into the Corporate Voluntary Liquidation Account

I, Gagan Gulati, have deposited Rs 1,47,537/- (Rupees One Lakh Forty Seven Thousand Five Hundred Thirty Seven Only) into the Corporate Voluntary Liquidation Account on 13th day of August, 2021 2254002100020356 vide acknowledgment no. 33001813 (Cheque No.) dated 13/08/2021.

I, Gagan Gulati, hereby certify that the details provided in this Form are true and correct to the best of my knowledge and belief, and nothing material has been concealed.

Date: 14.08.2021

Place: New Delhi


Gagan Gulati
Reg No: IBBI/PA-002/IP-N00893/2019-2020/12832
Address: A-179, First Floor, Sudershan Park, New Delhi 110015
Email: advocatgulati@gmail.com

- xiii. The Applicant Company submits that the cancelled cheque transferred to the shareholder along with the copy of cheque transferred to the IBBI and the copy of Form G which has been placed on record.
- xiv. The Applicant Company submits that the affidavit by the Liquidator in respect to the no pending dues of the creditors and the Stakeholders has been filed. The same is on record.
- xv. The Applicant company has placed the copy of NIL Bank Statement and the acknowledgment of Return of GST and TDS.
- xvi. The Applicant Company submits that in compliance with the provisions of Regulation 38 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator had prepared the

Final Report dated 25.08.2021 and the same has been submitted in e-form GNL-2 vide SRN T37606431 with the Registrar of Companies, NCT of Delhi & Haryana, Insolvency and Bankruptcy Board of India dated 26.08.2021 and ICSI IIP dated 27.08.2021.

xvii. The Applicant Company submits that in compliance with the provisions of Regulation 8(1) read with Regulation 37 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation) Regulations, 2017, the affairs of the company have been wound up in less than twelve months from the Liquidation commencement date i.e. 05.09.2020 hence there is no requirement to conduct contributories meeting and present annual status report as required under regulation 37 before the meeting of contributories.

3. Notice was issued to the Registrar of Companies (RoC), NCT of Delhi & Haryana vide this Adjudicating Authority's order dated 11.11.2021. In compliance with the above order, RoC had filed its report dated 13.12.2021, whereby it has stated that as per their records, no inquiry /inspection/complaint/legal action has been proceeded/pending against the Applicant Company.

4. We have heard the submissions made by the Ld. Counsel and perused the documents annexed to the petition. From a perusal of the instant Application and documents annexed therewith, it is seen that the Liquidator, after his appointment has duly performed his duties and completed necessary formalities to complete the liquidation process of the Applicant Company, which has been averred in the present application and, thus, the Liquidator has prayed for an order from this Adjudicating Authority to dissolve the applicant company.

5. This Adjudicating Authority vide order dated 06.02.2023 had directed the Liquidator to file an affidavit confirming that the Applicant Company has stood as guarantor in any guarantee obligation or not and the bank account which has been closed (Union Bank of India), the company is not maintaining any other type of bank account in any other bank for whatsoever purpose. In compliance of the order dated 06.02.2023, the Liquidator had filed an affidavit dated 14.02.2023 affirming that the company has not stood as guarantor in any guarantee obligation and besides the bank account which has been closed (Union Bank of India), the Company is not maintaining any other type of bank account in any other bank for whatsoever purpose.
6. It is pertinent to mention that the compliance certificate in Form-H was not placed on record in the original application dated 31.08.2021 filed before this Adjudicating Authority. Therefore, vide order dated 31.07.2023 passed by this Adjudicating Authority, the Liquidator was directed to file compliance certificate in Form-H. In compliance of order dated 31.07.2023, the Liquidator had filed a compliance certificate in Form-H dated 09.08.2023. The same is placed on record.
7. Further, no adverse comments have been received from any statutory authority or from public at large against such dissolution of the Applicant Company, despite there being a public announcement by the liquidator and also updation of the same in the website of the Insolvency and Bankruptcy Board of India (IBBI). It is also evident from the record that the proposed liquidation was duly communicated to the Registrar of Companies, NCT of Delhi & Haryana as per Form MGT-14 and Form

GNL-2 filed with the Registrar of Companies, NCT of Delhi and Haryana and the same are also reported to have been approved. It appears that the affairs of the Applicant Company have been completely wound up and its assets have been completely liquidated and no liabilities have been left unsatisfied. We have also duly considered the merits thereof, in the light of the statutory provisions of Section 59 of the Code, 2016 read with the relevant regulations.

8. Further as per record of the present case, it is seen that the Applicant Company is not found being involved in such kind of business activities, which are detrimental to the interest of the public at large. Furthermore, it is not the case that the proposed dissolution may adversely affect its shareholders/members or is contrary to the provisions of law.
9. By taking into consideration the above stated facts and circumstances, the instant Application **(C.P.(IB)/560/ND/2021) stands allowed.** Consequently, this Adjudicating Authority in exercise of power conferred to it under Section 59 (8) of the Insolvency and Bankruptcy Code, 2016, orders that the Applicant Company i.e., M/s. Swarup Auto Private Limited having CIN: U74899DL1984PTC019328 shall stand dissolved with effect from the date of pronouncement this order.
10. The Liquidator is directed to communicate a copy of this order to the respondent i.e., Registrar of Companies, NCT of Delhi & Haryana, wherein the registered office of the Applicant Company is situated. Further, a copy of this order should also be communicated to the IBBI, New Delhi, for information. Such communication should be made

within the stipulated period of fourteen (14) days from the date of receipt of certified copy of this order.

11. The Registry is directed to send e-mail copies of the order forthwith to the Applicant Company represented by its Liquidator and its Ld. Counsel for taking further necessary steps.

File be consigned to the records.

Sd/-

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

Sd/-

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