

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-III

ITEM No. 303
IB-38(ND)/2024

IN THE MATTER OF:

POSITIVE DEVELOPMENT TRUSTEESHIP Petitioner/Applicant
SERVICES COMPANY PRIVATE LIMITED

Order u/S. 59 of Insolvency & Bankruptcy Code (IBC), 2016.

Order delivered on 21.03.2024

CORAM:

SH. BACHU VENKAT BALARAM DAS
HON'BLE MEMBER (JUDICIAL)

SH. ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

(HEARING THROUGH PHYSICAL MODE & VC)

PRESENT:

For the Income Tax : Mr. Puneet Rai, Sr. Adv., Mr. Nikhil, Adv.
For the Liquidator : Mr. Ashish Mishra, Adv.

ORDER

Ld. Counsel appears for the Applicant. Ld. Counsel appearing for the RoC has stated that he has not received the copy of the present petition.

The petitioner is directed to serve a copy of the present petition to the RoC within two days.

The RoC is directed to submit its report within one week thereafter.

Ld. Counsel appearing on behalf of the Income Tax Department has stated that the report has been filed yesterday and there are no objections. He shall take steps to bring on record the report within two days.

Further, the Applicant is directed to prepare the gist of the matter, as per the checklist extracted below:-

SYNOPSIS

S No.	Compliance	(Yes/ No)	Reference
(1)	(2)	(3)	(4)
1.	<p>(Sec. 59(3)(a) read with Regulation 3(4))</p> <p><i>Declaration by way of an Affidavit from majority of the Directors to be filed.</i></p>		
2.	<p>(Sec. 59(3)(b)(i))</p> <p><i>Audited Financial Statements and record of business operations for the previous two years to be filed.</i></p>		
3.	<p>(Sec. 59(3)(b)(ii))</p> <p><i>Valuation Report to be filed.</i></p>		
4.	<p>(Sec. 59(3)(c)(i))</p> <p><i>Special Resolution requiring the Company to be liquidated voluntarily and appointing an insolvency professional within 4 weeks from the Declaration made under Section 59(3)(a).</i></p>		
5.	<p>(Proviso to Sec. 59(3)(c))</p>		

	<i>Approval of Resolution passed under Section 59(3)(c) by creditors (2/3rd in value) if any, within 7 days from the date of Resolution.</i>		
6.	(Sec. 59(4)) <i>Intimation to RoC & IBBI within 7 days from the date of the Resolution under 59(3)(c) or after approval of the creditors</i>		
7.	(Regulation 14) <i>Proof of Public Announcement made in 'Form - A' within 5 days from the date of appointment</i>		
8.	(Regulation 30) <i>List of Stakeholders in case of claims under Chapter V of the Regulations</i>		
9.	(Regulation 9) <i>'Preliminary Report' along with proof of submission of the same to the Company</i>		

	<i>within 45 days from the LCD</i>		
10.	<p>(Regulation 34)</p> <p><i>Opening of Bank Account in the name of the Company followed by the words ‘in liquidation’ in a Scheduled Bank</i></p>		
11.	<i>Proof of Closure of the above Bank Account and any other account in the name of the Company</i>		
12.	<p>(Regulation 35)</p> <p><i>Proof of distribution within six months from the receipt of realization</i></p>		
13.	<p>(Regulation 38)</p> <p><i>‘Final Report’ along with proof of submission of the same to RoC & IBBI</i></p>		
14.	<p>(Regulation 37)</p> <p><i>Completion of liquidation process within twelve months from LCD</i></p>		

15.	(Regulation 37) <i>Annual Status Report prepared (if any)</i>		
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16. REALISATION:

Sl. No.	Particulars	Amount (Rs)
(1)	(2)	(3)
1	Sale of Assets	
2	Refund from Statutory Authorities	
3	Cash / Bank balance	
4	Realization of uncalled/unpaid capital contribution	
5	Distribution of unsold asset	
6	Any other (Please specify)	
Total		

17. DISTRIBUTION:

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					
2	Liquidation Cost [Sec. 53(1)(a)]					
3	Workmen's Dues [Sec. 53(1)(b)(i)]					
4	Debts of Secured Creditors [Sec. 53(1)(b)(ii)]					
5	Wages and Unpaid Dues to					

	Employees[Sec 53(1)(c)]					
6	Debts of Unsecured Financial Creditors [Sec. 53(1)(d)]					
7	Government Dues + Amount Unpaid following Enforcement of Security Interest [Sec.53(1)(e)]					
8	Any remaining Debts and Dues [Sec. 53(1)(f)]					
9	Preference Shareholders [Sec. 53(1)(g)]					

10	Equity Shareholders [Sec.53(1)(h)]					
Total						

List the matter **on 12.04.2024.**

-Sd-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

-Sd-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

Ajay