

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) NO.106/ALD/2022

IN THE MATTER OF:

An application under 59(7) of IBC, 2016 read with Regulation 38 of IBBI (Voluntary Liquidation Process) Regulations, 2017

IN THE MATTER OF:

M/S INDUSTRIAL YARN THREAD (INDIA) PRIVATE LIMITED
(In Voluntary Liquidation)

Through Liquidator

Mr. Anil Kumar Shukla

Registered office; D-3/A, Panki Industrial State, Kanpur-205022
(U.P.)

..... **Applicant/Corporate Person**

Order Pronounced On 25th April, 2024

CORAM:

Mr. Praveen Gupta : Member (Judicial)

Mr. Ashish Verma : Member (Technical)

PRESENT:

For the Applicant : Sh. Anil Kumar PCS

ORDER

1. The present application CP (IB) No. 106/ALD/2022 was filed on 27.10.2022 by the Liquidator under section 59(7) of the Insolvency and Bankruptcy Code, 2016 (herein after referred as the “**Code**”) read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (herein after referred as the “**VLP Regulations**”) seeking dissolution of the company M/s Industrial Yarn Thread (INDIA) Private Limited (herein after referred to as the “**Company/Applicant**”).
2. The aforesaid Company was incorporated on 28.12.2011 under the Companies Act 1956 having CIN No. U17291UP2011PTC048127. The registered office of the Company is situated at D-3/A, Panki Industrial Estate, Kanpur- 208022 (U.P.), which lies within the territorial jurisdiction of this Bench. The Authorized Share Capital of the Company is Rs. 25,00,000/- (divided into 2,50,000 equity shares of Rs. 10/- each) and it’s issued, subscribed and paid-up Share Capital of Rs. 10,00,000/- (divided into 1,00,000 equity shares of Rs. 10/- each).

- 3.** As stated in the instant application the objective of the Company was to carry on the business of manufacturing, importing and exporting of all types of technical yarns and threads.
- 4.** As stated in the application, the company was not running any business for last many years and it was not commercially viable to revive and run the operations efficiently and thus very less probability of getting new business prospect. Considering these circumstances of not being able to run the business, the Board members in their meeting held on 03.03.2022 decided to wind up/liquidate the operations of the company voluntarily.
- 5.** It is further, stated in the application that after deciding to voluntary liquidate the Company, the members of the company unanimously passed a special resolution u/s 59 of the Code in the Extra Ordinary General Meeting held on 11.03.2022 approving the voluntary liquidation of the company. They appointed Mr. Anil Kumar, a registered insolvency professional having registration no. IBBI/IPA-002/IP-N00376/2017-18/11119 as a liquidator of the company with effect from 11.03.2022. A written consent of

the proposed liquidator has also been obtained. Copy of Extra Ordinary General Meeting Resolution dated 11.03.2022, consent letter of the Liquidator and his certificate of Registration has been annexed as Annexure **Annexure-3 (Colly)** with the Application.

6. It has been further stated in the application that as required for the resolution for voluntary liquidation of the Company, the Liquidator issued a public announcement in Form-A in terms of Regulation 14 of the VLP Regulations 2017 inviting the claim from the stakeholders and the same was uploaded on the web-site of Insolvency and Bankruptcy Board of India (herein after referred as **IBBI**) and also published in both English and Hindi newspapers, namely Financial Express and Jansatta on 16.03.2022. A copy of the Newspaper cuttings has been annexed as **Annexure-4 (Colly.)** with the application.
7. Thereafter, the Applicant notified to ROC about the Board Resolution passed for commencement of voluntary liquidation of the Corporate Person and appointment of Liquidator by filing e-form MGT-14 dated 17.03.2022. An email was also sent to IBBI on 17.03.2022 along with EGM

Resolution, Public Announcement informing about the voluntary liquidation of the Company. All these documents have been annexed as **Annexure -5 (Colly) and Annexure-6** with the application.

- 8.** In terms of Regulation 9 of the VLP Regulations, Preliminary Report dated 25.04.2022 was prepared by the liquidator and sent to Directors of the company (Physically) on 12.04.2022. Report has been found to be made in prescribed format giving details of capital structure, assets, liabilities etc. of the company as on 11.03.2022 (the date on which decision by directors was taken for liquidation of the company). As per this report, there is no Financial Creditor of the Company. M/s Adesh Tandon & Associates being Operational Creditor submitted a claim of Rs. 2,36,000 which was duly admitted by the Liquidator. Apart from this, there is no other outstanding liability as on the date of liquidation commencement. A Copy of the Preliminary Report and its acknowledgement has been annexed as **Annexure-7** with the Application.
- 9.** As required under section 178(1) of the Income-tax Act, 1961 on winding up of a company, the applicant has sent an

intimation letter dated 23.03.2022 to the Income Tax Department informing about the above decision of the Voluntary Liquidation of the Company taken by the members of the Company with a request to file any outstanding claim. In response to the said letter, the concerned assessing officer of the Company vide letter dated 06.04.2022 informed that there is an outstanding due in respect of the Corporate Person. of Rs. 1140/-. The said taxation amount alongwith interest calculated till the date of payment was made by the Liquidator on 19/05/2022. A Copy of the letters exchanged with Income Tax Department and Challan evidencing payment of Tax, have been annexed as **Annexure-8 (Colly)** with the Application.

10. After this, the Liquidator sent an intimation letter dated 23/03/2022, to the Joint Director General of Foreign Trade, Kanpur, regarding Voluntary Liquidation Process via speed post. A Copy of the intimation letter sent to the DGFT has been annexed as **Annexure-9** with the Application. The Liquidator also sent an intimation letter dated 30/03/2022, to the Goods and Services Tax Department, Kanpur, regarding the Voluntary Liquidation Process via speed post.

A Copy of the said intimation letter has been annexed as **Annexure-10** with the Application.

- 11.** As per the requirements of the Regulations 34(1) of the VLP Regulations, the Liquidator opened a Bank account of the Company in the name of “M/s Industrial Yarns & Threads (India) Private Limited in Voluntary Liquidation” with Punjab National Bank, Sangam Palace Branch, Civil lines, Prayagraj on 31.03.2022 for realization and payment to the creditors, members and stakeholders.

The Liquidator requested the existing bank namely, HDFC Bank to add his name as a sole signatory by physically visiting the bank on 25/03/2022.

- 12.** The Liquidator closed the existing bank account of the Company with the SBI, Kanpur on 06.04.2022 and transferred the remaining balance in the newly opened previously mentioned bank account. Thereafter, the liquidator has through email made various requests to the Banker during 13/04/2022 to 19/04/2022, which also replied by the said Banker. The liquidator again visited the Bank on 29/04/2022 and gave them a request to close the Current Account and transfer the balance lying in credit to

the newly opened Bank Account with the Punjab National Bank, Sangam Place Branch, Civil Lines, Prayagraj, in the name and style 'M/s Industrial Yarns & Threads (India) Private Limited in Voluntary Liquidation'.

- 13.** The existing bank account of the Corporate Person in the HDFC Bank was closed on 30/04/2022, after transferring the balance amount to newly opened Bank Account in the Punjab National Bank. A Copy of the Letters sent to the Bank, emails exchanged and Bank Statement showing Nil balance have been annexed as **Annexure-11 (Colly.)** with the Application.
- 14.** In terms of section 35(2) of the Code read with Regulation 12 of the VLP Regulations, the Liquidator convened and held a meeting of the stakeholders on 13.07.2022 and apprised them about the progress since the liquidation commencement date (i.e. 07.03.2022 till 13.07.2022) and status of liquidation as on date. Minutes of the said meeting has been annexed in **Annexure A-12** with the application.
- 15.** The accounts of the liquidation showing the receipts and payments pertaining to liquidation since the liquidation commencement date i.e. 11.03.2022 till 06.10.2022 were

prepared and sent to the Auditor for submitting his Audit Report thereon. The Auditor submitted his report on 07.10.2022. A copy of the Receipts and Payments Report and the Independent Practitioner's report thereon dated 07/10/2022 have been annexed as **Annexure-13 (colly)** with the Application.

- 16.** Meanwhile, Liquidator received claims from all the shareholders, in the prescribed format informing their respective shareholding and for claiming the residual amount. In the claim forms, bank details were provided to the Liquidator to do the needful. The Liquidator has effected the transfer of funds to the shareholders account on 17.8.2022.
- 17.** After the settlement of the claims of the shareholders and payment of the residual amount to the shareholders of the Corporate Person and the liquidation expenses to the Liquidator, the Bank Account of the Corporate Person was brought to 'NIL' balance on 18.9.2022. The Liquidator has not yet closed the Bank Account as some refund amount is expected from the Income Tax Authorities. A Copy of the Statement of the Punjab National Bank has been annexed as **Annexure – 14** with the Application.

- 18.** The Liquidator appointed M/s Subhash Agarwal & Co., Cost Accountant vide an email dated 14.4.2022 for conducting a Transactional Review Audit of the Company for determination of PUFÉ transactions in terms of Section 43, 45, and 50 and 66 of the Code. The Auditor so appointed has submitted his Transaction Audit Report dated 16.06.2022 from the period 11.03.2020 to 11.03.2022 wherein no PUFÉ transaction has been recorded in the audit. A Copy of the Transaction Audit Report of the Auditor has been annexed as **Annexure – 15** with the Application. After this, the Independent Auditor submitted the Audit Report dated 22/09/2022 on the financial statements of the Applicant as on 31/03/2022.
- 19.** As per Regulation 38(1), the Liquidator filed its Final Report dated 19.10.2022 and sent to the IBBI via email on 19.10.2022 and has also filed in e-form No. GNL-2 vide SRN F31745342 on 20.10.2022 to the Registrar of Companies (ROC), Uttar Pradesh at Kanpur. Copy of Final Report, Form GNL-2, Filing Receipt, Copy of Email to IBBI has been annexed as **Annexure-1(Colly)** with the Application.
- 20.** During the course of hearing on 25.07.2023, Ld. Liquidator Sh. Anil Kumar submitted that there is some discrepancy in

the Form H, which needs to be revised/ corrected, and therefore, seeks three days' time to do the needful.

- 21.** In compliance of the aforesaid order dated 25.07.2023, an affidavit has been filed vide diary no.1989 dated 28.07.2023, whereby the Form-H dated 21.10.2022 has been corrected, and a declaration has been given by the Liquidator that there are no claims/ objections received from anyone except one Operational Creditor, and further it has been clarified about the amount of Rs.56,820/- shown as 'other current assets' of the Corporate Person as on 11.03.2022. It has also been clarified that the said amount reflects the amount of tax and TDS. Copy of Form-H has been annexed as **Annexure-1** with the Additional Affidavit.
- 22.** Notice was issued to the concerned ROC Uttar Pradesh at Kanpur vide order dated 22.11.2022. The affidavit of service was filed vide Diary Nos.304 dated 04.01.2023. In compliance with the above order, ROC filed its report vide Diary No.1292 dated 26.04.2023, whereby it has stated that no charge/complaint/legal action has been proceeded/pending against the concerned company. It is further stated that the company has filed its annual return and balance sheets for

the year 2021 and Liquidator, Mr. Anil Kumar has filed final report in the MCA-21 Registry through GNL-2 vide SRN F31745342 on 20.10.2022.

23. This Tribunal vide order dated 03.8.2023 directed Liquidator to file Valuer's Report as per the Section 59(3) of the IBC, 2016. The relevant portion of the order is reproduced below:-

“.....

- i. *In compliance of the previous order dated 25.07.2023, an affidavit has been filed vide diary no.1989 dated 28.07.2023, whereby the Form H has been corrected, and a declaration has been given by the Liquidator that there are no claims/objections received from anyone except one Operational Creditor, and further it has been clarified about the amount of Rs.56,820/- shown as 'other current assets' of the Corporate Person as on 11.03.2022. It has also been clarified that the said amount reflects the amount of tax and TDS.*
- ii. *The aforesaid affidavit is taken on record. 3. Ld. Liquidator Mr. Anil Kumar present in person further seeks a short adjournment to file a convenience chart as regards to the compliances to be made U/s 59 of the Code, and also to file the affidavit about the appointment of Valuer in terms of the provisions of Section 59(3)(b)(ii) of the Code.*

....”

24. The Liquidator has filed affidavit in compliance with the order dated 03.8.2023 wherein it is stated that assets lying in the

Form of Bank Balance, Fixed Deposits and Cash Balance do not fall within the purview of Securities and Financial Assets for valuation under IBBI. Thus, it does not constitute an asset requiring valuation and meeting the requirement of obtaining valuer's report in the present case.

- 25.** We have heard the learned counsel appearing on behalf of the Applicant and have also carefully gone through the application filed by the Applicant/liquidator seeking dissolution in terms of section 59(7) of the Code. We have also duly considered the merits thereof in the light of the statutory provisions of Section 59 of the Code read with VLP Regulations. After examining the application, documents annexed therewith and the submissions made by the Liquidator, we find 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 also all liabilities are stated to have been discharged and therefore, there is no legal impediment in allowing the prayer of the applicant for taking on record the Final Report of the Liquidator and pass an order for dissolution of the Company.

- 26.** Accordingly, we, in the exercise of the power conferred under Section 59 (8) of the Insolvency and Bankruptcy Code, 2016, order that the Corporate Person (the Company under liquidation in the present application) shall be dissolved from the date of this order.
- 27.** In terms of Regulation 41 of 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 08 years after the dissolution of the corporate person, either with himself or with an information utility.
- 28.** The Applicant is directed to serve the copy of this Order upon the Registrar of Companies (ROC), with whom the Company is registered, within 14 days of receipt of this Order. The ROC shall act as be necessary upon receipt of a copy of this Order.

-Sd-

(Ashish Verma)
Member (Technical)
Date: 25th April 2024

-Sd-

(Praveen Gupta)
Member (Judicial)