

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - I

ITEM No.302 - IA(Co.Act)/26(AHM)2024
in
CP/3(AHM)2023

Order under Section 277(4) of Co. Act, 2013

IN THE MATTER OF:

Nilesh Kothari Provisional Liquidator of Gujarat Industrial
Infrastructure Projects Ltd.Nilesh Kothari

.....Applicant

.....Respondent

Order delivered on 17/04/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon,ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH –I
AHMEDABAD**

**IA/26(AHM)2024
In
CP No. 3/NCLT/AHM/2023**

*(An application filed under Section 277(4) of the
Companies Act, 2013)*

In the matter of:

Mr. Nilesh Kothari, Provisional Liquidator

Having Address at:

At A703, Iskon Riverside,
Shahibaug, Near Shelaleikh
Society, Ahmedabad,
Gujarat – 380 004

....Applicant/
Provisional Liquidator

And In the matter of:

Gujarat Industrial Infrastructure Projects Limited

Having its address at:

2nd Floor, Block 4 Udhyog Bhawan,
Sector 11, Gandhinagar-382107.

....Petitioner

Order pronounced on 17.04.2024

CORAM:

SH. SHAMMI KHAN, MEMBER (JUDICIAL)

SH. SAMEER KAKAR, MEMBER (TECHNICAL)

APPEARANCE

For the Applicant : Ms. Mily Ghoshal, Advocate

ORDER

(Per: BENCH)

1. This present petition has been filed under Section 277(4) of the Companies Act, 2013 (for brevity, the '**Act**') by Mr. Nilesh Kothari (for brevity, the '**Applicant**') who is appointed as the Provisional Liquidator for the Petitioner Company, namely, Gujarat Industrial Infrastructure Projects Limited seeking constitution of the Winding Up Committee as per the provisions of Section 277(4) of the Companies Act, 2013.
2. The Applicant herein is a Provisional Liquidator appointed for the winding up of M/s. Gujarat Industrial Infrastructure Projects Limited (hereinafter referred as 'Company') in the Company Petition No. 3/NCLT/AHM/2023, vide order dated 03.01.2024 of this Tribunal.
3. In compliance of the directions given by this Tribunal in terms of order dated 03.01.2024, the applicant filed his disclosure of interest or lack of Independence in compliance of under Section 275(6) of the Companies Act.

2013 r. w. Rule 14(5) and 21 of the Company Rule, 2000 and has e-mailed to the Registry the said declaration on 15.01.2024.

4. It is stated that the Applicant had issued public advertisement in compliance to Regulation 20 in Form WIN 14 and Form WIN 6 on 22.01.2024 in Newspaper '**Free Press Gujarat**' (English) and '**Lokmitra**' (Vernacular).
5. It is stated that the Applicant has notified the Official Liquidator attached to the Tribunal about the present Liquidation proceedings under letter dated 02.03.2024. It is further stated that the applicant has also filed Form INC 28 on the MCA Portal.
6. It is the plea of the applicant that as per the provisions of Section 277(4) of the Act, the Provisional Liquidator is required to make an application to the Tribunal for constituting a winding up committee to assist and monitor the progress of liquidation proceedings by the company in carrying out the function as provided in

Section 277(5) of the Act in terms of which the committee comprises of the following:

- i. The Provisional Liquidator (Applicant herein)
- ii. The Official Liquidator attached to the Tribunal.

7. Learned counsel for the applicant on the hearing dated 04.04.2024 orally requested to condone the delay of 48 days from the date of order of winding up and the same is allowed.

8. Having heard the applicant and perused the record, we dispose of the captioned application with the following directions:-

- a) As far as the prayer clause (a) contained in the application is concerned, it being mandate of the statutory provisions, we allow the same and we hereby appoint Mr. Nilesh Kothari, having IBBI Registration No. **IBBI/IPA-002/IP-N01225/2022-23/14132**, E-mail ID: ca.nkothari@gmail.com, Address: A703, Iskon Riverside, Shahibaug, Near Shelaleikh Society, Ahmedabad, Gujarat, 380 004 as member of Winding Up Committee. The Committee will comprise Mr. Shobhit Srivastava, Official Liquidator, Ministry of Corporate Affairs, e-mail: ol.ahmedabad@mca.gov.in, Address: Corporate

Bhawan, 3rd Floor, S. G. Highway, Opposite Zydus Hospital, Ahmedabad, Gujarat-380059.

- b) The committee will assist and monitor the process of liquidation proceedings as provided under the provisions of Section 277(4) of the Companies Act, 2013 and the Liquidator will further comply the provisions of Section 277(5) of the Companies Act, 2013.
- c) The Official Liquidator shall be the convener of the meetings of the winding up committee which shall assist and monitor the liquidation proceedings in following areas of liquidation functions, namely:-
- i. taking over assets;
 - ii. examination of the statement of affairs;
 - iii. recovery of property, cash or any other assets of the company including benefits derived therefrom;
 - iv. review of audit reports and accounts of the company;
 - v. sale of assets;
 - vi. finalization of list of creditors and contributories;
 - vii. compromise, abandonment and settlement of claims;
 - viii. payment of dividends, if any; and
 - ix. any other function, as the Tribunal may direct from time to time.

- d) The Provisional Liquidator shall place before the Tribunal a report along with minutes of the meetings of the committee on monthly basis duly signed by the members present in the meeting for consideration till the final report for dissolution of the company is submitted before the Tribunal.
- e) The Provisional Liquidator shall prepare the draft final report for consideration and approval of the winding up committee.
- f) The final report so approved by the winding up committee shall be submitted by the Provisional Liquidator before the Tribunal for passing of a dissolution order in respect of the company.
- g) The Provisional Liquidator is directed to serve the copy of this Order to the Registrar of Companies, the Official Liquidator appointed by this Tribunal and all other concerned parties.
- i) With the above directions, the I.A. No. 26 of 2024 in CP(IB) No.3/NCLT/AHM/2023 is allowed and disposed of.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

Swetambary-Steno

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)