

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 36

C.P.(IB)1651/MB/2019

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **22.04.2024**

NAME OF THE PARTIES: **GERMAN -GULF ENGINEERING (INDIA)**
PVT LTD

Section 59 of the Insolvency and Bankruptcy Code, 2016

ORDER

C.P.(IB)1651/MB/2019

- 1) **Mr. Partha Sarathy Sarkar, Ld. Counsel/Liquidator of the Corporate Person is present.**

- 2) The present Company Petition has been filed under section 59 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") by a Corporate person, named **German -Gulf Engineering (India) Pvt Ltd** having **CIN: U29253MH2011FTC223874** through the Liquidator **Partha Sarathy Sarkar**, the Insolvency Professional, **having Registration No: IBBI/IPA-002/IP-N00239/2017-2018/10690** to initiate Voluntary Liquidation Proceedings under Code.

- 3) The Corporate Person has complied with requisite formalities and procedure of liquidation as per law and has filed this Petition for its dissolution under section 59 of the Code.
- 4) The Corporate Person was incorporated, under the provisions of Companies Act, 1956, on **14.11.2011**, with an Authorized Capital of the company is to the tune of Rs. 1,00,00,000/- and Paid-up capital of the Corporate Person is to the tune of Rs. 50,00,000/-.
- 5) The Registered office of the Company is situated at **Level 2, Kalpataru Synergy Opposite Hotel Grand Hyatt, Santacruz (East) Mumbai – 400 055.**
- 6) The Company, at present, has **Three (3)** directors namely **Mr. Rudolf Eller (DIN: 0002102045), Mr. Richard Josef John Eller (DIN: 0002183113) and Mr. Sayar Singh Rathore (DIN: 000659668).**
- 7) German-gulf Engineering (India) Private Limited is a Subsidiary of Foreign Company. It's a private unlisted company and is classified as 'company limited by shares'. German-gulf Engineering (India) Private Limited is majorly in Manufacturing (Machinery & Equipments) business.
- 8) It is submitted that on 09.10.2017, Board Resolution of the Company for initiating Voluntary Liquidation was undertaken and it was decided to appoint Advocate Partha Sarathy Sarkar, Insolvency Professional to act as Liquidator.

- 9) Accordingly, The Board of Directors also made a declaration of solvency dated **13.12.2017** as required under Section 59(3) (a) of the Insolvency and Bankruptcy Code, 2016.
- 10) Directors of the Company have declared on Affidavit dated **13.12.2017** that as per section 59(3) of the Insolvency and Bankruptcy Code, 2016, they have made a full enquiry into the affairs of this Company and that having done so, they have formed the opinion that the Company has no debt; if any debt arises during the process of Voluntary Liquidation, Company will be able to pay its debts in full from the proceeds of assets to be sold in the Voluntary Liquidation and the Company is not being liquidated to defraud any Person.
- 11) Pursuant to the decision of the Board of Directors, the shareholders of the Company in its Extra Ordinary General Meeting held on **12.01.2018**, passed the Special Resolution under Section 59 of the Insolvency and Bankruptcy Code read with the Voluntary Liquidation Regulations for the commencement of voluntary liquidation and appointment of **Advocate Partha Sarathy Sarkar** a Registered Insolvency Professional as Liquidator of the Company.
- 12) Basis the Resolutions passed in the Board Meeting and the Resolution passed by Shareholders in the Extra Ordinary General Meeting, an appointment of **Advocate Partha Sarathy Sarkar** was confirmed by the Company to act as the Liquidator of the Corporate Person.

- 13) The Liquidator made a public announcement of commencement of Liquidation in **Form A of Schedule I as per regulation 14 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017** in English Language and in Marathi Language on **17.01.2018**, inviting for the submission of claims by the Stakeholders, if any, within 30 days from the date of commencement of Liquidation. The Public Announcement was simultaneously submitted to the Insolvency and Bankruptcy Board of India to place the same on its website.
- 14) It is submitted that pursuant to the Public Announcement relevant claims so received in terms of Form B was compared with the Audited Financial Statement of accounts as on 11.01.2018 and requisite payment were made.
- 15) The Petitioner has submitted the Resolution for the commencement of Liquidation, the appointment of a Liquidator, and a copy of Public Announcement, made in the newspaper, to the Registrar of Companies. Thereafter, status of the Company was changed to 'Under Liquidation'.
- 16) The Petitioner notified the **Registrar of Companies, Mumbai**, and the IBBI, New Delhi about the passing of a Special Resolution to liquidate the Petitioner Company. **It is submitted by the Applicant that Form MGT-14 is not specifically required to file; because, they have already informed the Registrar of Companies and the same has also been**

uploaded on the website of Registrar of Companies and the Portal acknowledges the same.

- 17) The Petitioner submits that the Shareholders of the Company has also accorded their consent to the Special Resolution passed for Voluntary Liquidation of the Company under Section 59 of the Code.
- 18) It is further submitted that relevant sales tax proceedings etc., were duly undertaken and requisite payments were made and relevant evidence as to the payment of tax and tax clearance certificate is annexed herewith as **Exh-G (Colly)**. **Further, the relevant proceedings under the Income Tax Act was duly complied with and that there was no income tax dues payable/outstanding and relevant evidence is annexed as Exh-H.**
- 19) Income Tax Department *vide* its letter dt. 01.03.2018 submitted that *“As per the E-filing and ITD database available with the undersigned, there are no income tax dues outstanding in the case of M/s German Gulf Engineering India Pvt. Ltd. as on the date of signing this Letter i.e. 01.03.2018”*.
- 20) It is averred that as per Sub Regulation (1) of Regulation 34 of the Voluntary Liquidation Regulations, a new Voluntary Liquidation Bank Account was opened in the name of **M/s German-Gulf Engineering (India) Private Limited – Voluntary Liquidation with Canara Bank.**

- 21) It is also submitted that instructions were given to Canara Bank for making payment to the Shareholders; since, there were no activities carried out by the Company and all requisite payments in respect of the outstanding duly met. Copy of the same letter is annexed here with the Petition as Exhibit-I.
- 22) The Liquidator has submitted his Preliminary Report as required under Regulation 9(1) of IBBI (Voluntary Liquidation Process) Regulation, 2017, during the hearing. In the report, the Liquidator has stated that the company is not doing any business and its books of accounts reflect that the company does not have any liabilities and Creditors nor there are any realizable assets now.
- 23) In terms of Regulation 32 and 35 of the Voluntary Liquidation Regulations, the Liquidator realised the assets and distribution of proceeds. It is submitted that pursuant to distribution of proceeds, the liquidation account was closed by the Applicant.
- 24) The copy of the **Final Report** dated **11.04.2019** of the Liquidator is annexed to the petition, which shows the realization and payment to the members of the Company, containing the details as required under regulation 38 of IBBI (Voluntary Liquidation Process) Regulation, 2017. The said final report of the Liquidator is submitted with the Registrar of Companies and sent to IBBI.

- 25) The Liquidator has filed this Company Petition before this Tribunal under section 59(7) of IBC seeking an order of dissolution of the Petitioner company.
- 26) On examining the submission made by the counsel appearing for the Applicant and the documents annexed to the petition it appears that the affairs of the company have been completely wound up, and its assets have been completely Liquidated.
- 27) In view of the above facts and circumstances and the submissions made by the Liquidator, upon the perusal of the final report and the Compliance Certificate, it is seen that the Corporate Debtor has been completely Liquidated, and this Bench is of the considered view that **the Company, German-Gulf Engineering (India) Private Limited deserves to be dissolved**. Accordingly, we direct that the Company shall be dissolved from the date of this order.
- 28) Consequently, the Liquidator **Advocate Partha Sarathy Sarkar** is discharged from his duties and responsibilities as the Liquidator of the Corporate Person, **viz. German-Gulf Engineering (India) Private Limited**.
- 29) The Petitioner is further directed to serve a copy of this order upon the jurisdictional Registrar of Companies, with which the company is registered, within Seven (7) days of receipt of this Order. The Registrar shall take necessary action upon receipt of a copy of this order.

30) The Liquidator shall preserve physical or electronic copy of the Reports, Registers, and Books of Account for at least eight years after the dissolution of the Corporate Person, either with himself or with an information utility, as per the amendment dt. 16.09.2022, vide Notification Number IBBI/2022-23/GN/REG095, the preservation of records prescribed under Sub-Regulation 1 and 2 of Regulation 41 of The IBBI (Voluntary Liquidation Process) (Second Amendment) Regulations, 2022.

31) With the aforesaid observations and directions, the Company Petition bearing CP (IB) No. 1651 of 2019, is disposed of.

32) There will, however, be no order as to costs. Ordered Accordingly.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**

Vedant Kedare