

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI**

IA(CA)/39/(CHE)/2024

In

Comp. Appl/1(CHE)/2023

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

In the matter of J & H Design & Construction Private Limited

MR. S. KANNAN

Company Liquidator of M/s. J & H Design & Construction Private Limited

Skyline Castle, 1st Floor, 27, Abdul Razack Street,
Saidapet, Chennai – 600 015

... Applicant

In the matter of

Sri. Hwan Seung Hwang

Shareholder-cum-Director of M/s. J & H Design & Construction Pvt. Ltd.

...Applicant

-Vs-

The Registrar of Companies, Chennai

... Respondent

Order Pronounced on 03rd May 2024

CORAM

SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Appearances:

For Petitioner : Mr. V. Manivannan & v. Arvind Rajagopal, Advocates

ORDER

1. The present application is filed by Mr. S. Kannan, the Company Liquidator appointed by this Tribunal vide order dated 23.11.2023 seeking relief as follows,

a) That this Hon'ble Tribunal may be pleased to take this application for constituting the Winding up Committee on record and order the constitution of the Winding up Committee consisting of the (a) Official Liquidator attached

to the Tribunal S. Kannan (the Company Liquidator), (b) Mr. Madhavarao Baranidaran being the authorized Power of Attorney of Mr. Hwan Seung Hwang (50% shareholder Cum Director of M/s. J & H Design & Construction Pvt. Ltd) and (c) Chartered Accountant Mr. M. Ajay Kumar ;

b) For such further and other reliefs as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.

2. It is stated by the learned counsel for the applicant that the subject company was ordered into liquidation vide order dated 25.08.2023 in compliance of the same, publications in English and Tamil daily were made on 30.08.2023 regarding intimation of Liquidation Process of the subject Company and calling the creditors to submit their claims till 24.09.2023. It is stated that no claims were received except the Applicant in the main Company Application.
3. It is stated on behalf of the applicant that Form WIN 10 was also filed by the Applicant herein before this Tribunal on 18.10.2023 vide Dy.no. 4438.
4. It is stated that vide order dated 23.11.2023, the applicant herein was appointed as the provisional Liquidator and vide order dated 25.08.2023 was appointed as the Company Liquidator.
5. It is stated that as per section 277(4) of the Companies Act, 2013 with three weeks from the date of passing of winding up order, the Company Liquidator shall file an application seeking appointment of a winding up committee. It is stated that since there was a delay of 4 days in filing the instant application an

application in IA(CA)/180/(CHE)/2023 seeking condonation of delay due to the then existed 'Michaung Cyclone' was filed before this Tribunal the same was allowed on 17.01.2024. And thereafter, the instant application is filed seeking constitution of winding up committee.

6. Heard the Counsel for the Applicant and perused the documents on record.

7. It is submitted that the section 277 (4) of the Companies Act, 2013 mandates constitution of winding up committee for which the applicant has proposed names of three people as per the categories mentioned in section 277 (4) of the Companies Act, 2013.

8. Section 277 (4) of the Companies Act, 2013 provides as follows;

Sec 277(4) – Within three weeks from the date of passing of winding up order, the Company Liquidator shall make an application to the Tribunal for constitution of winding up committee to assist and monitor the progress of Liquidation proceedings by the company liquidator in carrying out the sanctions as provided in sub section (5) and such winding up committee shall comprise of the following persons, namely;-

- (i) Official Liquidator attached to the Tribunal;*
- (ii) nominee of Secured Creditors: and*
- (iii) a professional nominated by the Tribunal.*

9. From the above provision it is manifest that a winding up committee shall be constituted to assist and monitor the Liquidation proceedings by the Company Liquidator.

10. Therefore, we appoint *Mr. S. Kannan (the Company Liquidator), (b) Mr. Madhavarao Baranidaran being the authorized Power of Attorney of Mr. Hwan Seung Hwang (50% shareholder Cum Director of M/s. J & H Design & Construction Pvt. Ltd) and (c) Chartered Accountant Mr. M. Ajay Kumar* as proposed by the applicant, to assist and monitor the Liquidation Proceedings. The consent letter from the Chartered Accountant appointed is filed along with the application. The same is taken on record.

11. In the view of above said facts and circumstances, this tribunal taking into consideration the records available along with the Provisions of the Act, allows the instant application subject to the following directions, namely:

- a) *That the Company Liquidator shall be the convenor 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) *Finalisation of list of creditors and contributors;*
 - (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.*
- b) *The Company 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.

c) The Company Liquidator shall prepare the draft final report for consideration and approval of the winding up committee.

d) The Final report so approved by the winding up committee shall be submitted by the Company Liquidator before the Tribunal for passing of a dissolution order in respect of the Company.

12. In terms of the above directions, **IA(CA)/39(CHE)/2024** in Comp.Appl/1(CHE)/2023 stands *allowed* and is *disposed of*.

-Sd-

**RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)**

-Sd-

**JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)**