

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH - III**

C.P. IB-581/ND/2018

**Coram: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)
DR. V. K. SUBBURAJ, MEMBER (TECHNICAL)**

IN THE MATTER OF SECTION 59 OF THE INSOLVENCY AND
BANKRUPTCY CODE, 2016 READ WITH INSOLVENCY AND
BANKRUPTCY BOARD OF INDIA (VOLUNTARY LIQUIDATION
PROCESS) REGULATIONS, 2017.

IN THE MATTER OF:

**ESS AAR THREADS PVT LTD,
Through Liquidator,
Basement, G-90,
Preet Vihar,
New Delhi – 110092.**

...Applicant

For the Applicant : Mr. Kanti Mohan Rastogi, Liquidator



ORDER

Delivered on:29.08.2018

1. The present application has been filed by the Liquidator Mr. Kanti Mohan Rastogi on behalf of the Applicant Company Ess Aar Threads Pvt. Ltd. under Section 59(8) of the Insolvency and Bankruptcy Code, 2016 (“the Code”).
 2. The statements made in the application are as follows:
 - a. The Applicant is Ess Aar Threads Pvt. Ltd. (CIN:U17299DL1985PTC268994) a company incorporated under the Companies Act, 1956, with its registered office at Basement, G-90, Preet Vihar, New Delhi – 110092.
 - b. The authorized share capital and the paid-up share capital of the Applicant company as per the master data on the website of the Ministry of Corporate Affairs is Rs.15,00,000/- and Rs. 14,50,000/- respectively. Copy of the master data of the Applicant company has been submitted as Annexure A-1.
 - c. The Applicant company has three directors namely Sudhir Rustagi, Faqir Chand Rustagi and Pradip Kumar Pitambar Dayal.
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- d. The Applicant company convened a meeting of the Board of Directors on 29.11.2017 wherein the Board of Directors approved the draft declaration as stipulated under Section 59(3) of the Code duly signed and verified the same by way of affirmation. The declaration with annual reports for the previous two years i.e. 2015-16 and 2016-17 have been submitted as Annexure A-2. The Applicant company duly filed the declaration signed by the Board of Directors of the Applicant company with the Registrar of Companies in compliance of Section 59(3) of the Code in Form GNL-2 which has been submitted as Annexure A-3.
- e. On 14.12.2017 the Applicant company held an Extra Ordinary General meeting and passed the special resolution to voluntarily liquidate the Applicant company and appointed Mr. Kanti Mohan Rustagi an Insolvency Professional to act as the Liquidator for the same purpose. A copy of the special resolution has been submitted as Annexure A-4. A copy of Form MGT-14 for filing the special resolution with the Registrar of Companies within seven days of passing of the special resolution is submitted as Annexure A-8.
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- f. It is represented that the Applicant company has no creditors and thus, the question of approval of the board resolution by the creditors does not arise.
- g. The Liquidator of the Applicant company published a public announcement in Form A of Schedule I in Business Standard (English) on 16.12.2017 and in Business Standard (Hindi) on 18.12.2017 within 30 days of the date of commencement of liquidation. A copy of the publications has been submitted as Annexure A-5 (Colly.). The Liquidator also intimated the Insolvency and Bankruptcy Board of India ("IBBI") of the public announcement in Form A of Schedule I for publication on the website of the IBBI. A copy of the communication with IBBI has been submitted as Annexure A-6 and a copy of the public announcement of the website of IBBI has been submitted as Annexure A-7.
- h. The Applicant company duly notified the Registrar of Companies about the resolution to voluntarily liquidate the Applicant company vide Form MGT 14 and the IBBI vide an email consisting of a letter of intimation of the initiation of voluntary liquidation of the
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Applicant company, which have been submitted as Annexure A-8 (Colly.).

- i. The Applicant company received an outstanding demand of Rs.3,505/- for the A.Y. 1998-99 and Rs. 23,217/- for the A.Y. 2008-09 aggregating to a total outstanding of Rs. 26,722/- from the office of Income Tax. No claims from any creditors were received.
- j. The Liquidator submitted a Preliminary Report dated 20.01.2018 to the shareholders of the Applicant company within 45 days of the date of commencement of liquidation on 21.01.2018 and the same has been submitted as Annexure A-10.
- k. The Applicant company sent a letter to the Office of Income Tax ("the ITO"), Ward-04, Mehsana stating that as per the statement of outstanding Tax Demand retrieved from the portal ITO, there was no outstanding demand for the A.Y. 1998-99.
- l. The Liquidator duly prepared the list of stakeholders and intimated the IBBI vide email. The Liquidator sent an email to the ITO informing them that he has been appointed as the Liquidator for the Applicant company and in his capacity as the Liquidator, he had made Public Announcement in Business Standard newspaper in both English and Hindi dated 16.12.2017 and 18.12.2017

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respectively for inviting claims from third parties. He further informed the ITO that no reply has been received by the Applicant company to the Applicant company's letter dated 22.01.2018 and further requested them to send a reply within 7 days in order to proceed further with the distribution of proceeds with the stakeholders.

- m. The Liquidator opened a bank account in the name of Ess Aar Threads Pvt. Ltd. under Voluntary Liquidation with HDFC Bank bearing no. 50200030127890 situated at 4/5 Om Plaza, Sector 15 C, Vasundhara, Ghaziabad 201012 on 21.03.2018. A copy of the details of the bank account in the name of Ess Aar Threads Pvt. Ltd. Under Voluntary Liquidation has been annexed as Annexure A-15.
- n. The Liquidator sent another email dated 26.03.2018 to the ITO and informed them it had come to his knowledge from the Applicant company's shareholders that HDFC Bank has received a notice from ITO regarding the outstanding demand for the A.Y. 1998-99 and 2008-09.
- o. The Applicant company received an email dated 03.04.2018 from the ITO wherein it was stated that as per the ITD portal a demand

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of Rs.3,405/- for A.Y. 1998-99 was still outstanding and further requested to make the payment immediately and further send the proof of payment of the same by email, pursuant to which the Applicant company vide an email dated 04.04.2018 replied that as per the website of ITO no demand was reflecting against the Applicant company.


- p. The Liquidator received a letter bearing no. MHN/ITO-Wd-4/Liquidation/EATPL/2017-18 dated 09.04.2018 from the ITO wherein it was acknowledged by ITO that a payment with regard to the demand of Rs.3,505/- has been received by the ITO.
- q. In compliance with Regulation 30 of the Voluntary Liquidation Regulations the Liquidator duly prepared the list of stakeholders and intimated the IBBI vide email dated 26.02.2018. A copy of the email dated 26.02.2018 with the list of stakeholders has been submitted as Annexure A-13 (Colly.).
- r. The Applicant company received an email containing an intimation u/s 143(1) of the Income Tax Act, 1961 from the Deputy Commissioner of Income Tax wherein a demand of Rs.280/- was raised against the Applicant company in respect of return of income filed by the Applicant company for the A.Y. 2017-18. The

Liquidator on receiving such demand duly made the payment of Rs.280/-.

- s. In compliance with the provisions of Regulation 35 of the IBBI (Voluntary Liquidation Process) Regulations, 2017 and Section 53 of the Code the Appointed Liquidator distributed the proceeds from the realization of assets involved in the process of voluntary liquidation to the stakeholders which were transferred from the liquidation account. The auditor's certificate certifying the Liquidator's final statement of Account for the period starting from the liquidation commencement date i.e. 14.12.2017 to 07.05.2018 has been submitted as Annexure A-23.
 - t. The Liquidator prepared a final report dated 11.05.2018, which has been submitted as Annexure A-24. The same has been submitted to the Registrar and the IBBI on 14.05.2018.
 - u. Therefore, the Applicant has prayed to this Tribunal to order dissolution of the Applicant company.
3. We have gone through the application and the annexures and heard the Liquidator. According to the averments made in the application, as stated above, all the requirements under Section 59 of the Code and the IBBI

(Voluntary Liquidation) Regulations, 2016 have been complied with and consequently, the Liquidator has moved the present application Section 59(7) of the Code. Thus, the Applicant company is ordered to be dissolved with effect from 29.08.2018 and a copy of this order shall be forwarded to the concerned authority where the Applicant company is registered within 14 days.

4. Registry is directed to forward the copy of this order to the concerned authority with which the Applicant company is registered.


(DR. V.K.SUBBURAJ)
MEMBER (TECHNICAL)


(R.VARADHARAJAN)
MEMBER (JUDICIAL)