

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court - I)
KOLKATA**

IA (IB) No. 13/KB/2024
in
CP (IB) No. 221/KB/2022

An application under section 33(1)(a) of Insolvency & Bankruptcy Code, 2016

In the matter of

Navshikha Multitraders Private Limited

... Financial Creditor

Versus

Zoom Dealcom Private Limited

... Corporate Debtor

-And-

In the matter of:

Mr. Manoj Sehgal,

Resolution Professional of Zoom Dealcom Private Limited

... Applicant

Order reserved on: 10.06.2024

Order pronounced on: 01.07.2024

Coram:

Smt. Bidisha Banerjee, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (through video conferencing):

For the Resolution Professional:

1. Mr. Parikshit Poddar, Adv.
2. Ms. Saiee Nirgude, Adv.

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This court was convened via video conferencing.
2. This is an application filed by the Resolution Professional with the approval of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, viz., Naresh Retail Mart LLP, on the ground that the CoC has decided to liquidate the Corporate Debtor by 100 % votes. The applicant has sought for the following reliefs:
 - a. *To pass an order for the liquidation of the Corporate Debtor in view of section 33 of the Code;*
 - b. *To appoint Mr. Manoj Sehgal as the liquidator of the Corporate Debtor in view of the consent given to act as the Liquidator of the Corporate Debtor; and*
 - c. *Pass such other order(s) as this Adjudicating Authority may deem fit and appropriate in the facts and circumstances of the case.*
3. This Adjudicating Authority *vide* its order dated 22.10.2019 on a Petition filed by Navshikha Multitraders Private Limited ('financial creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 ('the Code') directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed **Mr. Bhavesh M. Rathod** as the Interim Resolution Professional ('IRP').
4. During the course of CIRP, Mr. Bhavesh M. Rathod subsequently issued letter dated 02.11.2023 expressing his inability to act as the IRP and as such, the Committee of Creditors ('CoC') file I.A. 1976 of 2023 for the

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appointment of the Applicant herein as IRP in place of Mr. Bhavesh M. Rathod. The said application was allowed by this Adjudicating Authority vide order dated 07.12.2023.

5. The Applicant published a public announcement¹ under section 15 of the Code on 18.12.2023 in newspapers being *Financial Express* (Kolkata and Mumbai editions) (English), *Aajkal* (Kolkata edition) (Bengali) and **Mumbai Lakshadeep** (Mumbai edition) (Marathi), thereby inviting claims for stakeholders of the Corporate Debtor. The public announcement was also uploaded on the website of IBBI.
6. In terms of Regulation 6(2)(c) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016, the last date for submission of proof of claim was 31.12.2023.
7. The applicant received only one claim in total *i.e.* from Navshikha Multitraders Private Limited, the Financial Creditor herein. Accordingly, the CoC was constituted with the sole member having 100% voting rights.
8. The first meeting² of the CoC was held on 11.01.2024, in which the Applicant was confirmed as the Resolution Professional ('RP').
9. In the second CoC meeting held on 08.02.2024, the CoC allowed the Applicant to file before the Adjudicating Authority, an application for the exclusion of a period of 45 days between 02.11.2023 *i.e.* the date of commencement of CIRP and 17.12.2023 *i.e.* the date of appointment of the Applicant as IRP. The said application was filed before this Adjudicating Authority and is pending adjudication.

¹Annexure C

²Annexure D

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10. Further, in the aforesaid second CoC meeting, the CoC approved the resolution of issuance of invitation of Expression of Interest (“EOI”) in Form G as per Regulation of 36B of the IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016 (“CIRP Regulations”). Accordingly the RP published Form G³ on 13.02.2024 in the newspapers namely *Financial Express* (Kolkata and Mumbai editions) (English), *Navakal* (Kolkata edition) (Bengali) and *Pratakal* (Mumbai edition) (Marathi).
11. In the third CoC meeting held on 01.03.2024, the CoC approved the Request for Resolution Plan (“RFRP”) and Evaluation Matrix as per Regulation 36B of the CIRP Regulations. Pursuant to the Form G dated 13.02.2024, the RP received one EOI. However, no resolution plan was received by the RP and accordingly, the CoC in its fourth meeting⁴ held on 18.04.2024 approved the resolution for liquidation of the Corporate Debtor under section 33 of the Code by 100% votes. Hence, the RP has filed the instant application under section 33(1) of the Code before the Adjudicating Authority seeking orders for liquidation of the Corporate Debtor.
12. The applicant /Resolution Professional has agreed⁵ to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator, in terms of section 34(1) of the Code and has a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member.
13. We have considered the submission made by the learned Counsel on behalf of the applicant /RP and perused the record.
14. Section 33(1) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where before the expiry of the insolvency resolution process period, no resolution plan is received by the

³Annexure G

⁴Annexure I, Page 62-63, item B2

⁵Annexure J

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Adjudicating Authority under section 30(6) of the Code , subject to other stipulations of Section 33. Further Section 33(2) stipulates that when the resolution professional at any time during the CIRP , but before confirmation of the resolution plan intimates the decision of the committee of creditors [approved by not less than 66 % of the voting share to liquidate the CD , the Adjudicating Authority shall pass a liquidation order as stipulated.

15. This Bench, therefore, hereby orders as follows: -

- a. Prayers as sought for in **I.A. (IB) No. 13/KB/2024** filed by Mr. Manoj Sehgal, Resolution Professional of Zoom Dealcomm Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(1) of the Code;
- b. Though the RP has given his consent to act as the Liquidator of the Corporate Debtor but in view of the IBBI Circular no. Liq-12011/214/2023-IBBI/840 dated 18/07/2023 for appointment of Liquidator other than IRP/RP under section 34(4)(b) of the Code, we hereby appoint **Mr. Sriram Mittal** Regn no. : IBBI/IPA-001/IP-P02276/2021-22/13677 appearing at S.no. **16** of the Insolvency and Bankruptcy Board of India, Panel for July 1, 2024 to December 31, 2024 for West Bengal having **email: srirammittal.ev@gmail.com**, mobile no. 9748755155 as Liquidator in terms of section 34(1) of the Code.
- c. His appointment shall be subject to his/her possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he/she is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations,

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2019. The Liquidator is directed to submit his consent to act as Liquidator within **10 days** of receipt of this order. The erstwhile RP shall handover all papers and documents in his possession concerning the Corporate Debtor to the Liquidator appointed in this matter within **10 days**.

- d. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- e. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, stating that the Corporate Debtor is in liquidation.
- f. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- g. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him/her in managing the liquidation process of the Corporate Debtor.
- h. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

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- i. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
 - j. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the **Registrar of Companies, West Bengal**, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal.
16. The application bearing **IA (IB) No. 13/KB/2024** shall stand disposed of in accordance with the above directions.
17. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
18. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
19. List the main **CP (IB) No. 221/KB/2022** for reporting progress on **31.07.2024**.

[Balraj Joshi]
Member [Technical]

[Bidisha Banerjee]
Member [Judicial]

Signed on this, the 1st day of July, 2024

Suman M[LRA]