

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT – 1**

ITEM No.301  
IA(liq)/12(AHM)2024 in  
CP (IB)141 of 2023

**Order under section 33 & 34 of IBC,2016**

**IN THE MATTER OF:**

Iqbal Singh Gandhi  
RP of M/s Dcom System Ltd.

.....Applicant

.....Respondent

**Order delivered on: 15/05/2024**

**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 the 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)**

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH -I, AHMEDABAD**

**IA(liq)/12/AHM/2024 in CP (IB)/141/2023**

*(Filed under Section 33(2) & 34 of the Insolvency and  
Bankruptcy Code, 2016).*

*In the matter of **Dcom System Ltd.***

**Iqbal Singh Gandhi**

Resolution Professional  
of Dcom System Ltd.

Having registered Address at:

9B, Vardan Tower, Nr. Vimal House,  
Lakhudi Circle, Navrangpura,  
Ahmedabad- 380014

**.... Applicant/RP**

**Order Pronounced on 15.05.2024**

**CORAM:**

**Mr. SHAMMI KHAN, MEMBER (JUDICIAL)**

**Mr. SAMEER KAKAR, MEMBER (TECHNICAL)**

**APPEARANCES:**

For Applicant : Mr. Sumit Parikh, Adv

**ORDER**

1. The IA(liq)/12/AHM/2024 has been filed by the Applicant Resolution Professional under Section

33(2) and 34 of the Insolvency and Bankruptcy Code, 2016 seeking relief as follows; -

- a. *Your Lordship may be pleased to admit and allow the present application*
- b. *Your Lordship may be pleased to pass an order under Section 33 of the code for initiation of liquidation process against the Corporate Debtor. i.e. M/s. Dcom System Limited.*
- c. *Your Lordship may be pleased to pass an order under Section 34 of the Code and appointing the Applicant herein as the Liquidator of the Corporate Debtor i.e. M/s. Dcom System Limited.*
- d. *Your Lordship may be pleased to grant any other relief or relief as may deem fit in the lights of the facts and circumstances of the case;*

2. Facts of the Case are as follows:

- i. It is stated that the Financial Creditor i.e. Indian Bank (Erstwhile Allahabad Bank) filed an application under section 7 of the Code seeking initiation of the Corporate Insolvency Resolution Process ("CIRP") of

the Corporate Debtor i.e. M/s Dcom Systems Limited. Further, this Hon'ble Adjudicating Authority vide its order dated 17.01.2024 (Order received on 18.01.2024) was pleased to admit the petition and further appointed the Applicant as the Interim Resolution Professional ("IRP") of the Corporate Debtor.

- ii. It is stated that the as contemplated under Section 15 of the Code read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the IRP made public announcement in prescribed 'Form-A' on 20.01.2024 and invited claims from all the creditors. The said announcement was published in the newspapers i.e., Financial Express - in English and Gujarati Language wherein the last date for submission of claims was 01.02.2024. A copy of the public announcement in prescribed Form-A dated 20.01.2024 in newspaper is annexed here and marked as "ANNEXURE-B" to present application.

- iii. It is stated that the Applicant pursuant to the public Announcement dated 20.01.2024, the IRP has inter alia received claims from the creditors of the Corporate Debtor and constituted the Committee of Creditors ("CoC"). The applicant has also filed the report certifying the constitution of CoC as per Regulation 17 (1) of IBBI (Insolvency Process of Corporate Persons) Regulations, 2016 on 08.02.2024 before this Hon'ble Tribunal. However, the applicant had received several claims even after the constitution of CoC hence the applicant had re-constitution of Committee of Creditor on 30.03.2024. A copy of the reports certifying the re-constitution of CoC dated 30.03.2024 is annexed hereto and marked as "ANNEXURE-C" in the present application.
- iv. It is further stated that the first meeting of members of the Committee of Creditors ("CoC") was held on 16.02.2024, wherein it was resolved to continue the applicant herein as a Resolution Professional ("RP") of the Corporate Debtor with majority Votes (74.67%). Further in the said meeting, the members

of CoC resolved to appoint Registered Valuers for the Class of Securities and Financial Assets and reduce the notice period for calling subsequent CoC Meetings from 5 days to 2 days. A copy of the minutes of First meeting of members of CoC dated 16.02.2024 along with attendance sheet and voting results are annexed herewith and marked as "ANNEXURE-D" to the present application.

- v. It is stated that the Applicant duly convened the second meeting of members of CoC on 15.03.2024 wherein the RP apprised the members of CoC that there is a Bank Balance of approx. Rs 10.30 lacs in the current account of the Corporate debtor maintained with the Axis Bank. However, the said Bank Balance was under the Lien mark Attached by the Income Tax Department for recovery of their dues. In the said meeting CoC also ratified the CIRP Cost. A copy of the minutes of Second meeting of CoC dated 15.03.2024 along with attendance sheet and Voting results are annexed herewith and marked as "ANNEXURE-E" to the present application. 4

vi. It is stated that the applicant duly convened the Third Meeting of the CoC on 03.04.2024, wherein RP apprised the members of CoC that the RP had received Letter document from the Income Tax Department claiming Rs.20,06,34,604/-. However the said demand/claim was not in the prescribed form, further apprise that there is Bank balance of Rs. 10,30,000/- Approx. lying with the Axis Bank in the name of the Corporate Debtor which are lien marked by the Income Tax Department and further the RP had written numerous Letter & E-mail Correspondence with the Department, requesting for the Removal of Lien marked on the Bank account as maintained with the Axis Bank. The RP further apprised that **there was no Business Operation since last 8 years, No Man Power in the name of Corporate debtor, No Movable as well as Immovable assets except Bank Balance, No Carry forward losses as per available records.** Hence, the member of CoC in the said meeting, resolved to initiate liquidation process of Corporate Debtor and

further resolved to appoint the applicant as Liquidator of Corporate Debtor. The applicant further submits that in the said meeting, members of CoC also approved the estimated liquidation cost of Rs. 2,25,000/- Approx. as required in accordance with the provisions contained in Regulation 39B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- vii. It is stated that the members of CoC, having voting rights of 91.16%, have approved the resolution for initiation of the Liquidation Process under Section 33 of the Code and further resolved to appoint the applicant herein as the Liquidator under Section 34 of the Code. Relevant Resolution is placed on pages 92-93 of the Application
- viii. It is stated by the applicant that the applicant had submitted its Written Consent along with Form-B Authorization for Assignment to act as a Liquidator of the corporate debtor.



- ix. It is further submitted by the applicant that the Form-H compliance certificate in accordance with Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is annexed at ANNEXURE-I of the application.
3. The provisions of Section 33(2) of the Code are reproduced below: -

*“... (2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than sixty-six per cent of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).*

*<sup>12</sup>[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution*

*plan, including at any time before the preparation of the information memorandum.]”.*

4. The Hon'ble Supreme Court in the matter of ***K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018*** has held that the commercial decision of CoC is **non-justifiable**. In this case, it is seen that CoC with a **91.16%** majority has passed the resolution seeking liquidation of the Corporate Debtor.
5. In terms of the above, we hereby order for liquidation of the Corporate Debtor.
6. IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (*read liquidation*) order is passed henceforth. In terms of the above circular of IBBI, we hereby appoint **Mr. Mahendra Prasad Jindal** an IPA having registration No. IBBI/IPA-001/IP-P-00616/2017-2018/11073, as per the panel

suggested by IBBI for this Bench, as the Liquidator of the Corporate Debtor to carry the liquidation process subject to the following terms of the directions: -

- a) The Corporate Debtor **M/s. Dcom System Limited** shall be ordered for liquidation in terms of the provisions of section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.
- b) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- c) As per section 34(4)(b) of the Code, **Mr. Mahendra Prasad Jindal** an IPA having registration No. IBBI/IPA-001/IP-P-00616/2017-2018/11073 is hereby appointed as a Liquidator of the Corporate Debtor I.e. M/s Dcom System Limited. The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d) All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter

cease to exist. All these powers henceforth vest with the Liquidator.

- e) The personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- f) The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- g) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.
- h) This liquidation order shall be deemed to be 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.

- i) This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees could also be informed of this liquidation order through their association.
- j) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations, and also file its response for disposal of any pending Company Applications during the process of liquidation.
- k) The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.

1) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

7. Accordingly, **IA(liq)/ 12(AHM)2024** in CP(IB) No. 141 of 2023 is disposed off.

**-SD-**

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

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**-SD-**

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**