

**THE NATIONAL COMPANY LAW TRIBUNAL
COURT V, NEW DELHI**

**I.A. (Liq.) 33/ND/2024
IN
COMPANY PETITION NO. (IB) – 264/PB/2023**

*Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for
initiating liquidation process of Corporate Debtor and to pass other
necessary directions.*

IN THE MATTER OF IB-264/PB/2023:

GO AIRLINES (INDIA) LIMITED
Britannia Industries Limited,
A-33, Lawrence Road, Industrial Area,
New Delhi-110035

.... Corporate Applicant

AND IN THE MATTER OF IA (LIQ.) 33/ND/2024

**MR. SHAILENDRA AJMERA
RESOLUTION PROFESSIONAL OF
GO AIRLINES (INDIA) LIMITED**
Ernst & Young LLP,
3rd Floor, Worldmark 1, Aerocity Hospitality,
New Delhi, NCT of Delhi-110037

...Applicant/Resolution Professional

Order Delivered On: 20.01.2025

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)
DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant/ RP: Mr. Ritin Rai, Sr. Adv., Mr. Diwakar Maheshwari,
Mr. Vishnu Shriram, Ms. Pratiksha Mishra, Advs.

For the Suspended Management: Mr. Mustafa Doctor, Sr. Adv. with Ms. Anshula
Grover, Mr. Lenpithang Sithlou, Advs.

ORDER

PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

1. This is an application filed by Mr. Shailendra Ajmera, the Resolution Professional of the Corporate Applicant, M/s Go Airlines (India) Limited (CIN: U63013DL2004PLC217305) under Section 33(2) read with Section 34 of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Regulation 40D of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“Liquidation Regulations”) along with Rule 11 of the NCLT, Rules, 2016 for issuance of directions for liquidation of the Corporate Applicant, M/s Go Airlines (India) Limited pursuant to the decision taken by the CoC in its 37th meeting held on 23.07.2024.
2. The Applicant has made the following prayers in the application:
 - (a) *Allow the present Application and pass an order directing Go Airlines (India) Limited to be liquidated in terms of Section 33 of the Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;*
 - (b) *Appoint Mr. Shailendra Ajmera, having IP Registration IBBI/IPA-001/IPP00304/2017-2018/10568, as the liquidator of the Corporate Debtor to conduct the liquidation of the Corporate Debtor in accordance with the IBC read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;*
 - (c) *Pass necessary directions for issuance of public announcement stating that the Corporate Debtor is in liquidation;*
 - (d) *Pass directions for the order of liquidation to be sent to the Registrar of Companies where the Corporate Debtor is registered;*
 - (e) *Approve the key terms of the Capital Provision Agreement dated 04.08.2024 executed between the Corporate Debtor, and the relevant Burford Capital entities as are set out in Annexure “61”;*

- (f) Approve and declare that all amounts payable under the CPA (including Capital Providers Entitlement (as defined in the CPA) and the Insurance Amounts shall be treated as liquidation costs for the purposes of Section 5 (16) of the IBC; and*
- (g) Pass any such orders as it may deem fit and necessary in the interest of equity and justice.*

3. The facts in brief stated in the application is as under: -

- a) The Applicant submits that the Adjudicating Authority vide its order dated 10.05.2023 had initiated the Corporate Insolvency Resolution Process against M/s Go Airlines (India) Limited ('Corporate Debtor') in C.P.(IB) 264/PB/2023, being an application filed under Section 10 of the Code and appointed Mr. Abhilash Lal as the Interim Resolution Professional (IRP) of the Corporate Debtor. Pursuant to his appointment, the IRP constituted the CoC and the first meeting of the CoC was convened on 09.06.2023, wherein, the members of the CoC unanimously passed a resolution to replace the IRP and appoint the Applicant, Mr. Shailendra Ajmera, as the Resolution Professional (RP) of the Corporate Debtor. Subsequently, the Adjudicating Authority vide its Order dated 15.06.2023 appointed the Applicant as RP of the Corporate Debtor.
- b) The Applicant submits that the IRP made public announcement in Form A on 13.05.2023 under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 inviting stakeholders to submit their claims against the Corporate Debtor. The last date for submission of claims was 24.05.2023.
- c) The Applicant submits that the Resolution Plans received were neither compliant with the mandatory requirements of the IBC nor commercially acceptable to the CoC, therefore, in view of the unviability of resuming commercial operations of the Corporate Debtor, the CoC has opted for the liquidation of the Corporate Debtor.
- d) The Applicant had filed an application bearing IA No. 5766/2024 before this Adjudicating Authority seeking amendment in prayer clause 'b' of the instant application and to replace the name of Mr. Shailendra Ajmera with the name of

Mr. Dinkar T. Venkatasubramanian to act as the Liquidator of the Corporate Debtor pursuant to the IBBI circular dated 18.07.2023 which recommends appointment of an insolvency professional as the liquidator other than the resolution professional of a Corporate Debtor.

- e) At the 37th CoC meeting on 23.07.2024, estimated liquidation cost for the liquidation process was informed as Rs. 21.6 crores, which was agreed to be funded by CoC members as per their voting share.
- f) The Applicant submits that with regard to the source of funding for the SIAC arbitration, the CoC approved proposal to avail litigation funding from Burford Capital as per the terms of the Capital provisions Agreement (CPA) to meet the estimated liquidation costs under Regulation 39B of the CIRP Regulations.
- g) Hence, the CoC in 37th CoC meeting held on 23.07.2024 resolved to initiate liquidation of the Corporate Debtor.

4. During the course of arguments certain queries with respect to Regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 were raised and accordingly, directions were issued to the CoC vide Order dated 06.12.2024 to clarify as to whether there was any commitment from the CoC to contribute towards the liquidation cost. In this regard, the Applicant has filed an Affidavit dated 15.12.2024 and 18.12.2024 to place on record the minutes of the 41st CoC meeting convened on 10.12.2024, whereby, the members of CoC, while expressing their commitment towards the payment of the liquidation cost, stated that to this effect recent payments have been contributed by CoC Members towards the payment of the English Counsel, King & Spalding, which were originally required to be paid by Burford Capital and the same could not be paid as the Liquidation Process has not yet been initiated. Further, the relevant extract of the minutes of the 41st CoC meeting held on 10.12.2024 is reproduced hereunder as:

“The CoC Members stated that in the 37th CoC Meeting, a summary of the estimated Liquidation Cost was placed before the CoC Members as required under Regulation 39B of the CIRP

Regulations and since the Corporate Debtor does not have sufficient assets to meet the estimated liquidation costs, the CoC Members had approved to contribute towards the liquidation costs in proportion of their voting share. Further, with respect to the costs to be incurred towards the PW SIAC Arbitration (estimated to be approx. Rs. 167 Crores), the CoC had accorded its approval on the commercial terms of the non-binding Term Sheet finalised in discussions with Burford Capital (UK) Limited in relation to the financing of the litigation costs pertaining to the PW SIAC Arbitration.

The CoC Members proceeded to deliberate on the way forward, particularly in view of the observations by the Hon'ble NCLT at the hearing on 6 December 2024. The Members were of the view that in accordance with Regulation 39B of the CIRP Regulations, in its 37th Meeting, **the members of the CoC had prepared a best estimate of the amount required to meet liquidation costs, in consultation with the Resolution professional and had approved the plan for contributing towards the liquidation costs in terms of which the Corporate Debtor had entered into a Capital Provision Agreement dated 4 August 2024 with Burford Capital to avail third-party litigation funding to meet the estimated liquidation cost to be incurred in relation to the PW SIAC Arbitration. The representatives of Bank of Baroda and Central Bank of India, representing 98.02% of the voting rights in the CoC further approved that considering that the arbitration proceedings are a significant and critical contingent asset of the Corporate Debtor, in the event that there is any shortfall in the Corporate Debtor's ability to meet the estimated liquidation cost, including the liquidation cost to be incurred in relation to the PW SIAC, the CoC Members will further contribute towards the same, as per the individual voting share in the CoC.** The CoC Members requested the Resolution Professional to apprise the Hon'ble NCLT of their decision at the next date of hearing on 18 December 2024."

5. It is observed that the members of the Suspended Board had also filed their reply dated 26.09.2024, thereby, stating that the members of the Suspended Board will continue to support Go First in pursuing the arbitration proceedings against Pratt.

The members of the Suspended Board further expressed their support in the consideration of the application for liquidation of the Corporate Debtor and permit the availing of third-party litigation funding for the P& W Arbitration considering that the arbitration claim is the only substantial asset from which the creditors and stakeholders of the Corporate Debtor can recover their dues.

6. It is observed that the CoC in its 37th meeting held on 23.07.2024 with 100% voting share decided to liquidate the Corporate Debtor and authorized the Applicant i.e. Resolution Professional to move an appropriate application before the Tribunal for initiation of liquidation process of the Corporate Debtor. The relevant extract of the Resolution of 37th CoC meeting passed is as below:

***“RESOLVED THAT,** in the absence of a resolution plan duly compliant with the provisions of the Code and the Regulations framed thereunder, the consent of members of Committee of Creditors is hereby accorded to Liquidate Go Airlines (India) Limited in accordance with provisions of the Insolvency & Bankruptcy Code, 2016, subject to approval of Hon’ble Adjudicating Authority.*

***RESOLVED FURTHER THAT** the consent of the members of the Committee of Creditors is hereby accorded to authorise Mr. Shailendra Ajmera as the Resolution Professional of the Corporate Debtor to file necessary application under Section 33 of the IBC and other provisions of IBC and applicable law, before the National Company Law Tribunal, Delhi Bench for initiation of liquidation of the Corporate Debtor.”*

7. It is further observed that the CoC in its 37th meeting held on 23.07.2024 also proposed the existing Resolution Professional, Mr. Shailendra Ajmera to act as the Liquidator in the matter in terms of the provision of the Code. However, keeping in view, the letter dated 18.07.2023 from the IBBI regarding recommendation for appointment of Liquidator other than IRP/RP under section 34(4)(b) of the IBC, 2016, the 39th meeting of CoC was convened on 04.11.2024, whereby, the members of CoC with majority of more than 66% voting share approved and resolved to appoint Mr. Dinkar Tiruvannadapuram Venkatasubramanian having IP Registration No. IBBI/IPA-001/IP-P00003/2016-17/10011 as the new Liquidator. Further, an

application bearing IA No. 5766/ND/2024 was also filed before this Adjudicating Authority seeking to appoint Mr. Dinkar T. Venkatasubramanian to act as the liquidator of the Corporate Debtor to conduct the liquidation of the Corporate Debtor in accordance with the IBC read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Such application was allowed by this Adjudicating Authority vide Order dated 06.12.2024 and the amended copy of IA(Liq.)/33/2024 as filed is also taken on record. The relevant extract of the Resolution passed in the 39th CoC meeting is reproduced hereunder as:

“Resolved that the approval of the CoC is hereby granted to appoint Mr. Dinkar T. Venkatasubramanian, an Insolvency Professional duly registered with the Insolvency & Bankruptcy Board of India, having registration number IBBI/IPA-001/IP-P00003/2016-17/10011, as the liquidator for the purposes of liquidation of Go Airlines (India) Limited in accordance with Section 34 of the provisions of the Insolvency & Bankruptcy Code, 2016.

Further resolved that Mr. Shailendra Ajmera, the Resolution Professional of Go Airlines (India) Limited, is further authorised to bring the decision on the aforesaid resolution to the attention of the National Company Law Tribunal, Delhi, which is presently seized of the application for Liquidation of Go Airlines (India) Limited.”

8. As the CoC has not approved the Resolution Plans received by it on the ground that the plan do not comply with the mandatory requirements of the IBC nor are they commercially acceptable to them, the CoC members have decided for the liquidation of the Corporate Debtor.
9. It is observed that pursuant to the above stated facts and circumstances, the Applicant has preferred the present application for passing the order of Liquidation of the Corporate Debtor i.e. Go Airlines (India) Limited in terms of the provisions enumerated under Section 33(2) of the IB Code, 2016 and to appoint Mr. Dinkar T. Venkatasubramanian as the Liquidator in the matter.

10. Section 33(2) of the Code provides that the Adjudicating Authority shall pass an order for liquidation of the Corporate Debtor, if the CoC by more than 66% (Sixty-Six Per Cent) of votes passes the resolution for liquidation. In the present case, the CoC with 100% (One Hundred Per Cent) has approved the liquidation of Corporate Debtor.
11. This Adjudicating Authority has gone through the application filed by the Applicant/ Resolution Professional, the present application is filed under section 33(2) of the Insolvency and Bankruptcy Code, the relevant extract of the section is reproduced as under: -

Section 33: Initiation of liquidation.

33. (1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(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).

[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.

12. Further, in the matter of **Sreedhar Tripathy vs. Gujarat State Financial Corporation and Ors. (12.10.2022 - NCLAT): MANU/NL/0788/2022**, the Hon'ble NCLAT in para 7 has stated as under: -

*The Explanation under Section 33(2) has been inserted by Act of 26 of 2019 contains the legislative declaration and intention. **The CoC in the Legislative Scheme has been empowered to take decision to liquidate the Corporate Debtor, any time after its constitution and before confirmation of the resolution plan. The power given to the CoC to take decision for liquidation is very wide power which can be exercised immediately after constitution of the CoC. The reasons which has been given in Agenda Item 1, it is made clear by the CoC that the Corporate Debtor is not functioning for last 19 years and all machinery has become scrap, even the building is in dilapidated condition and the CIRP will involve huge costs.** We are not convinced with the submission of learned counsel for the Appellant that the CoC's decision is an arbitrary decision. **CoC is empowered to take decision under the statutory scheme and when in the present case the decision of the CoC for liquidation has been approved by the Adjudicating Authority, we see not good ground to interfere at the instance of the Appellant.** However, we make it clear that the decision taken by the CoC was in the facts of the present case and it cannot be said that whenever decision is taken for liquidation the same is not open to judicial review by the Adjudicating Authority and this Appellate Tribunal. It depends on the facts of each case as to whether the decision to liquidate the Corporate Debtor is in accordance with the I & B Code or not. With these observations, the Appeal is dismissed.*

Issue of Meeting of Liquidation Cost: -

13. Regulation 39(B) of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016 provides for estimate of the amount required to meet liquidation cost. it is provided that in case the estimated value of liquid assets is less than the liquidation cost, the CoC has to approve a plan providing for contribution for meeting the difference between the two. That said plan is to be submitted before this Adjudicating Authority. The aforesaid Regulation 39B is reproduced hereunder

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for ready reference as:

“Regulation 39B: Meeting liquidation cost

39B. (1) While approving a resolution plan under sub-section (4) of section 30 or deciding to liquidate the corporate debtor under sub-section (2) of section 33, the committee may make a best estimate of the amount required to meet liquidation costs, in consultation with the resolution professional, in the event an order for liquidation is passed under section 33.

(2) The committee shall make a best estimate of the value of the liquid assets available to meet the liquidation costs, as estimated in sub-regulation (1).

(3) Where the estimated value of the liquid assets under sub-regulation (2) is less than the estimated liquidation costs under sub-regulation (1), the committee shall approve a plan providing for contribution for meeting the difference between the two.

(4) The resolution professional shall submit the plan approved under sub-regulation (3) to the Adjudicating Authority while filing the approval or decision of the committee under section 30 or 33, as the case may be.

Explanation. – For the purposes of this regulation, ‘liquidation costs’ shall have the same meaning as assigned to it in clause (ea) of sub-regulation (1) of regulation (2) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.]”

In this regard, the Resolution Professional (Applicant) has placed on record the minutes of the 41st meeting of CoC held on December 10, 2024 by filing an affidavit dated 18.12.2024. We have perused the minutes of the 41st meeting of the CoC and following minutes of the CoC are extracted below:

“The RP Counsel stated that the NCLT was of the view that under the regulations, a commitment from the COC was required to contribute the estimated liquidation cost irrespective of the source of funding. In view of the above observations, the Sr. Counsel requested the Court to allow time to discuss the matter and take instructions from the CoC. Accordingly, the matter was adjourned to December 18, 2024.

The RP and the CoC Members proceeded to discuss the way forward. The CoC Members stated that they are already committed and to this effect recent payments have been contributed by CoC Members towards the payment of the English Counsel, King & Spalding, which were originally

required to be paid by Burford Capital and the same could not be paid as the Liquidation Process has not yet been initiated.

The CoC Members stated that in the 37th CoC Meeting, a summary of the estimated Liquidation Cost was placed before the CoC Members as required under Regulation 39B of the CIRP Regulations and since the Corporate Debtor does not have sufficient assets to meet the estimated liquidation costs, the CoC Members had approved to contribute towards the liquidation costs in proportion of their voting share. Further, with respect to the costs to be incurred towards the PW SIAC Arbitration (estimated to be approx. Rs. 167 Crores), the CoC had accorded its approval on the commercial terms of the non-binding Term Sheet finalised in discussions with Burford Capital (UK) Limited in relation to the financing of the litigation costs pertaining to the PW SIAC Arbitration.

The RP stated that as part of the application for liquidation of the Corporate Debtor, approval of the key terms of litigation funding agreement entered by the Corporate Debtor with Burford Capital was sought from the NCLT.

However, in light of the proceedings currently underway before the NCLT, the CoC took note of the feedback and reiterated that while the litigation funding is sought to be availed through a third-party funder, i.e. Burford Capital, the Members confirmed that they are standing behind the requirement to contribute the liquidation cost with regard to meeting the litigation cost of the PW SIAC Arbitration.”

Further, it is necessary to refer to the definition of ‘liquidation cost’ provided in Regulation 2(1)(ea) of the IBBI (Liquidation Process) Regulations, 2016. As per this definition, ‘liquidation cost’ also include cost incurred by the Liquidator for preserving and protecting the assets, properties, effects and actionable claims, including secured asset of the Corporate Debtor. The above discussion in the CoC meetings indicate that although CoC Members are contemplating a third-party funding for the purpose of handling the arbitration in the SIAC arbitration, however, they are committed to make available necessary fund from their own source, if required. In view of this commitment by the CoC, it emerges that CoC Members will contribute for the liquidation cost.

14. As far as commitment of the CoC for contributing the liquidation cost in proportion of their voting share is concerned, we found that it is in compliance with Regulation

39(B) of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016.

Issues related to prayer (e) and (f): -

15. The Applicant has sought approval of the *key terms of the Capital Provision Agreement dated 04.08.2024 executed between the Corporate Debtor, and the relevant Burford Capital entities as are set out in Annexure “61”* and also approval and declaration that all amounts payable under the CPA (including Capital Providers Entitlement (as defined in the CPA) and the Insurance Amounts shall be treated as liquidation costs for the purposes of Section 5 (16) of the IBC. As far as approval of the “key terms of the Capital Provision Agreement dated 04.08.2024 executed between the Corporate Debtor, and the relevant Burford Capital entities” is concerned, it may be stated that these terms & conditions have been stated to be agreed by the Resolution Professional with the approval of the CoC of the Corporate Debtor. Since the CoC has already made a commitment for meeting the liquidation cost, which includes the cost of litigation, we are of the view that this Adjudicating Authority is not required to examine the legality and evaluate the terms and conditions of the said Agreement. As far as approval of plan by the CoC for contributing towards the liquidation costs, it is observed that the proposed funding from foreign source i.e. Burford Capital is in respect of litigation which is pending in courts of foreign jurisdiction i.e. Singapore International Arbitration Centre (SIAC).
16. For the purpose of prayer (e) & (f) as referred in para 2 of this order, Ld. Sr. Counsel during the course of argument has referred to certain judgments on the proposition that the third-party funding for litigation is not prohibited in India. A judgment of Hon’ble Supreme Court in **Bar Council of India Vs. AK Bala Ji & Others (2018) 5 SCC 379** has been referred. We have perused the said judgment. It is observed that in the said case, the issue before the Hon’ble Supreme Court was, “whether foreign law firms/lawyers are permitted to practice in India.” While considering that issue, the Hon’ble Supreme Court in paragraph 38 has merely stated that Advocates in India cannot fund litigation on behalf of their clients, however, there appears to be no restrictions on third party (non-lawyers) funding the litigation and getting repaid

after the outcome of the litigation. This observation was made in respect of the litigation pending in India. Further, a judgment dated 29.05.2023 of Delhi High Court in **Tomorrow Sales Agency Pvt. Ltd. Vs. SBB Holdings Inc. And Others FAO(OS)(COMM) 59/2023 and CM Nos. 14793/2023 & 14794/2023** was also referred to. On the perusal of the aforesaid judgment of Hon'ble Delhi High Court, it appears that an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 was filed against an order passed by the Ld. Single Bench Judge in a petition filed under Section 9 of the Arbitration and Conciliation Act. It is observed that Paragraph 73 of the judgment has merely stated the importance of third-party funding specially in cases where the person having a valid claim would be unable to pursue the same for recovery of the amounts that may be legitimately due to him. It is further stated by the Hon'ble Delhi High Court that a person without the necessary means would have no recourse, in the absence of third-party funders.

17. Additionally, certain amendments made by the states in order XXV of the Code of Civil Procedure, 1908 (CPC) recognizing the third-party funds in India have also been submitted.

18. In view of the aforesaid discussions, we may state that in the present case, Members of CoC are the Financial Creditors especially, the Banks. Therefore, it is presumed that these Financial Creditors must have sufficient funds for handling the arbitration pending before the SIAC. We are of the view that none of the judgment referred to by the Applicant gives any help to the Applicant for seeking relief in paragraph (e) & (f) of the prayer clause. With regard to the litigation for which a third-party foreign funding is proposed, it is observed that as of now, no litigation is pending in any Indian Court and also none of the pending litigations is governed by the provisions of the IBC or the Regulations made thereunder. Furthermore, the provisions of the State amendments in the CPC, 1908 are also not applicable in the present case. In view of these discussions, we are not inclined to examine the merits and legality of the aforesaid Litigation Funding Agreement. Since, we are not examining the legality/relevancy (including the permissibility) of

this agreement regarding the third-party funding from foreign source, consequentially, we are not inclined to pass any order in respect of prayer (e) & (f).

19. In view of the aforesaid observations and in light of the judgment referred to in para 11 of this Order, it emerges that the CoC in the legislative scheme is empowered to take decision to liquidate the Corporate Debtor, any time after its constitution and before confirmation of the resolution plan. The aforesaid resolution was approved by the members of CoC unanimously with 100% voting shares, in its 37th meeting held on 23.07.2024. It is well settled that decision taken by the CoC for liquidation in commercial wisdom of the CoC should not be interfered with by the Adjudicating Authority. Further, the resolution for liquidation of the Corporate Debtor was approved by CoC with 100% voting. Therefore, this Adjudicating Authority sees no merit in interfering with the commercial wisdom of the CoC.

20. In light of the above, the application is **allowed** by ordering liquidation of the corporate debtor, namely M/s Go Airlines (India) Limited with following directions:

- a) That Mr. Shailendra Ajmera, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
- b) That Mr. Dinkar Tiruvannadapuram Venkatasubramanian, holding Registration No. IBBI/IPA-001/IP-P00003/2016-17/10011 is appointed as the Liquidator in terms of Section 32(1) of the Code;
- c) Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d) The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- e) This order shall be deemed to be notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- f) The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy

Code, 2016 and in accordance with the relevant rules and regulations.

- g) The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- h) The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- i) The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- j) Copy of this order be sent to the financial creditors, corporate debtor, CoC members and the Liquidator for taking necessary steps;
- k) The CoC is directed to pay the remuneration and expenses of the Applicant including that of professional advisors subject to the provisions of IBC Code, 2016 and CIRP Regulations, 2016.

Accordingly, **I.A (Liq.) 33/ND/2024 in CP (IB) 264/PB/2023** stands **allowed** and is disposed of in terms of the aforesaid terms.

Let a copy of the order be served to the parties.

Sd/-
DR. SANJEEV RANJAN
MEMBER (TECHNICAL)

Sd/-
MAHENDRA KHANDELWAL
MEMBER (JUDICIAL)