

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.301 - IA/335(AHM)2025 In IA/1338(AHM)2024
in
C.P.(IB)/175(AHM)2022

Order under Section Rule 11 NCLT r/w 60(5) IBC

IN THE MATTER OF:

Durgesh Infrastructure Pvt. Ltd & Ors

.....Applicant

V/s

Bimal Desai Liquidator of Sintex Plastics Technology Limited

.....Respondent

Order delivered on: 17/04/2025

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sanjeev Kumar Sharma, Hon'ble Member(T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

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

IA/335(AHM)2025

In

IA/1338(AHM)2024

In

CP (IB) No.175/AHM/2022

[Application under Rule 11 of the National Company Law Tribunal Rules, 2016 read with Section 60 (5) of the Insolvency and Bankruptcy Code, 2016]

*In the matter of **M/s. Sintex Plastic Technology Limited***

1. Durgesh Infrastructure Private Limited

A Company incorporated under the provisions of The Companies Act, 1956
Having its address at
B1, 3rd Floor, Safal Profitaire,
Near Auda Garden,
Prahlad Nagar Corporate Road,
Satellite, Ahmedabad,
Gujarat, India, 380015

2. Atreyi Vincom Private Limited

A Company incorporated under the provisions of The Companies Act,
Having its registered office at
1007, 10th Floor, Safal Prelude,
Opp. Spipa Corporate Road,
Prahladnagar, Ahmedabad,
Ahmedabad, Gujarat, India. 380015

3. Unicon Suppliers Private Limited

A Company incorporated under the provisions of The Companies Act,
Having its registered office at 1007,
10th Floor, Safal Prelude,
Opp. Spipa Corporate Road,
Prahladnagar, Ahmedabad,
Ahmedabad, Gujarat, India, 380015



4. Eastern Mercantile Private Limited

A Company incorporated under the provisions of The Companies Act, Having its registered office at 2nd Floor, B1, Safal Profitaire, Opp Auda Garden Corporate Road, Prahlad Nagar, Ahmedabad, Ahmedabad, Gujarat, India, 380015

...Applicants

VERSUS

Bimal Desai,

former Liquidator of Sintex Plastic Technology Limited Having address at 217, Florence Pride, Opp. Corporation Garden, Sun Pharma Road, Vadodara, Gujarat- 390020. Email: bimal.a.desai@icai.org

...Respondent

Order Pronounced on 17.04.2025

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV KUMAR SHARMA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicants : Mr. Saurabh Soparkar, Sr. Advocate a/w.
: Mr. Sandeep Singhi, Advocate
For the Respondent : Mr. Kamil Lokhandwala, Advocate
For the Income Tax : Ms. Kinjal Vyas, Proxy Advocate
Department

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ORDER
[Per: Bench]



1. This is an application filed on 25.02.2025 by the Applicants under Rule 11 of the National Company Law Tribunal Rules, 2016 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking the following reliefs: -
 - (A) *That this Hon'ble Tribunal be pleased to permit the Applicants not to avail the relief and concession, as contained in Paragraph 18.4.D of the order dated 08.11.2024 passed by this Hon'ble Tribunal in I.A. 1338 (AHM) 2024, and consequently permit the non-listing of the new equity shares of the Company on the Stock Exchanges, and that the then existing equity shares, which have already been extinguished, shall automatically stand delisted; and*
 - (B) *That this Hon'ble Tribunal be pleased to pass such further and other directions as this Hon'ble Tribunal may deem fit and expedient, in the facts of the present case.*


2. It is stated that Corporate Debtor - **Sintex Plastic Technology Limited** was admitted to CIRP by this Hon'ble Adjudicating Authority vide order dated 21.02.2023 in CP (IB) 175 of 2022 at the instance of one Asset Reconstruction Company Limited filed an application u/s 7 of the on IB Code.

3. It is stated that later on 03.05.2024, this Tribunal passed an order under Section 33(2) of Insolvency and Bankruptcy



Code, 2016 (IB Code, 2016) in I.A.(Liq)09/2024 and initiated liquidation process against the Corporate Debtor i.e. Sintex Plastic Technology Limited and appointed Respondent herein as Liquidator to carry out liquidation process.

4. As a result of the liquidation order, trading in the Company's equity shares, which were listed on BSE Limited and the National Stock Exchange of India Limited (collectively, the Stock Exchanges), was suspended on 18.06.2024 to avoid market complications.
5. On 21.06.2024, the Liquidator issued an e-auction notice, offering the Company's assets for sale, including the option to acquire the Company as a going concern under Regulation 32(e) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
6. Durgesh Infrastructure Private Limited, Atreyi Vincom Private Limited, Unicon Suppliers Private Limited, and Eastern Mercantile Private Limited (the Applicants) participated in the e-auction and were declared successful bidders on 22.06.2024, with a bid of Rs. 20.63 crores for acquiring the Company as a going concern. The Liquidator issued a Letter of Intent on the same day, outlining the



terms of the acquisition.

7. The Applicants fulfilled their financial obligations swiftly, depositing the entire sale consideration of Rs. 20.63 crores on 18.07.2024. Following this, the Liquidator issued a Sale Certificate on 30.07.2024, formally transferring ownership of the Company to the Applicants.
8. To facilitate the Company's revival and ensure its smooth operation as a going concern, the Applicants filed I.A. No. 1338 (AHM) 2024 before the NCLT, Ahmedabad, under Rule 11 of the NCLT Rules, 2016, and Section 60(5) of the IBC. They sought various reliefs and concessions to facilitate the acquisition plan, including the cancellation of existing equity shares and issuance of new equity shares to Applicants, with a view to maintaining a minimum public shareholding of 5% as per the Securities Contracts (Regulation) Rules, 1957 (SCR Rules).
9. During the pendency of I.A. No. 1338 (AHM) 2024, a third party, Subhlaxmi Investment Advisory Pvt. Ltd., filed I.A. No. 1452 (AHM) 2024, seeking to intervene. Subhlaxmi cited its pending appeal (Company Appeal (AT) (Ins.) No. 1104 of



2024) before the National Company Law Appellate Tribunal (NCLAT), challenging the liquidation order of 03.05.2024. On 31.05.2024, the NCLAT had issued a notice in the appeal, directing that any actions taken in the liquidation process would be subject to the appeal's outcome. However, This Tribunal, vide its order 05.11.2024 dismissed the I.A. No. 1452 (AHM) 2024 in default due to lack of prosecution by Subhlaxmi Investment Advisory Pvt. Ltd.

10. This Tribunal, vide its order dated 08.11.2024, pronounced its order in I.A. No. 1338 (AHM) 2024, granting the Applicants' requested reliefs. These included the Cancellation/extinguishment of all existing equity shares of the Company without consideration (Paragraph 18.4A), permission to issue and allot new equity shares to Durgesh Infrastructure and other specified entities (Paragraph 18.4B), and a directive to list the new shares on the Stock Exchanges with a minimum 5% public shareholding, as outlined in Paragraph 18.4.D of the order. The order aimed to enable the Applicants to restructure the Company's capital and comply with regulatory norms while reviving its operations.



11. By letter dated 01.02.2025, the Respondent informed the Stock Exchanges that the Respondent has completed handover process of the Company to the Applicants. A copy of the letter dated 01.02.2025 addressed by the Respondent to the Stock Exchanges is annexed with the I.A. as Annexure-E.
12. However, a significant issue arose post-order. The Applicants had initially assumed that allotting new shares to others, as permitted by the 08.11.2024 order, would allow them to meet the 5% public shareholding requirement mandated by the second proviso to Rule 19A(5) of the Securities Contracts (Regulation) Rules, 1957.
13. Upon reconsideration and legal advice, the Applicants realized that maintaining a minimum public shareholding of 5%, as required under the second proviso to Rule 19A(5) of the SCR Rules, was not feasible. This was because the existing equity shares had been extinguished, leaving no public shareholders to contribute to the required shareholding, rendering compliance with the listing condition impractical.



14. The Applicants submitted that non-listing of the new shares and deeming the extinguished shares as automatically delisted would align with the acquisition plan's objectives, prevent regulatory complications, and ensure the Company's revival as a going concern. They emphasize that granting these reliefs would cause no prejudice to stakeholders, while denial could result in irreparable harm to their efforts to restore the Company's operations.
15. In a related development, Subhlaxmi Investment Advisory Pvt. Ltd. challenged the liquidation order in Company Appeal (AT) (Ins.) No. 1104 of 2024 before the National Company Law Appellate Tribunal (NCLAT). On 31.05.2024, the NCLAT issued a notice, stating that liquidation actions would abide by the appeal's outcome. The Applicants were impleaded as parties on 05.12.2024, and the appeal is scheduled for hearing on 27.02.2025. Meanwhile, the Liquidator completed the handover of the Company to the Applicants on 01.02.2025, marking the transition of control. The Applicants assert that granting the requested reliefs will cause no prejudice to stakeholders and is essential to avoid



irreparable harm to their revival efforts.

16. On 04.03.2025 notice was issued to the Respondent/Liquidator for filing reply/objection, if any. The Respondent/Liquidator filed the Reply by way of affidavit dated 14.03.2025 vide Inward Diary No. D 1764 which is reproduced as under: -

- i) I was appointed Liquidator vide order dated 03.05.2024 in IA No. 9(LIQ)/AHM/2024, with the liquidation period concluding on 02.05.2025. The Applicants, M/s Durgesh Infrastructure Private Limited & Ors., were granted certain reliefs and concessions in IA No. 1338/2024, allowed on 08.11.2024
- ii) The Applicants seek to forgo specific reliefs under Paragraph 18.4D of the order dated 08.11.2024, praying for permission to not list new equity shares on stock exchanges and for automatic delisting of extinguished equity shares
- iii) Pursuant to deliberations in the seventh Stakeholders Consultation Committee (SCC) meeting held on 11.03.2025, the SCC resolved to authorize me to file a reply ensuring no prejudice to stakeholders' interests. I respectfully submit that I have no objection to the Applicants' prayers, as they do not adversely impact stakeholders.



iv) I apprise this Hon'ble Tribunal that the liquidation order dated 03.05.2024 is under challenge before the Hon'ble NCLAT in Company Appeal (AT) (INS) No. 1104/2024, with the next hearing fixed for 20.03.2025. The Applicants have duly informed this Hon'ble Tribunal of the said appeal.

v) I humbly pray that this Hon'ble Tribunal may pass appropriate orders considering the merits of IA No. 335 of 2025 and this affidavit.


17. Thereafter, on 19.03.2025, the Tribunal took on record the Reply of the Respondent/Liquidator and noted the statement that no rejoinder was needed due to no objections of the Respondent/Liquidator. Further, on the request of the Applicants, a notice was also issued to the Income Tax Department i.e. Principal Commissioner of Income Tax (PCIT-3), Ahmedabad, inviting a reply within seven days of receiving the notice. Thereafter, any rejoinder to be filed within seven days thereafter.

18. The Applicants on 25.03.2025 filed Service Report Affidavit along-with Postal Receipts dated 22.03.2025, Tracking Reports dated 24.03.2025 and E-mail Copy dated 22.03.2025 being proof of service of notice upon the Income




Tax Department i.e. Principal Commissioner of Income Tax (PCIT-3), Ahmedabad.

- 19.** The Income Tax Department appeared through counsel and filed the Reply/Report through physical mode on 11.04.2025, vide Inward Diary No. R-701 along with Report dated 08.04.2025. Ld. Counsel for the Income Tax Department stated that the Department has no objection for the relief sought by the applicants in the present IA.
- 20.** We have heard the learned counsel for the Applicants, Ld. Counsel for the Respondent/Liquidator as well as Ld. Counsel for the Income Tax Department. We have carefully considered the submissions of the Ld. Counsel for the Applicants, the Respondent/Liquidator as well as of the Income Tax Department, along with the material on record.
- 21.** The primary issue is whether the Applicants should be permitted to forgo the relief in Paragraph 18.4.D of the order dated 08.11.2024, which mandated listing of new equity shares with a 5% public shareholding, and whether the extinguished shares can be deemed automatically delisted.
- 22.** The Applicants' request stems from the realization that the



5% public shareholding requirement under Rule 19A(5) of the SCR Rules cannot be met, as there are no existing public shareholders following the extinguishment of all prior equity shares as ordered on 08.11.2024.

- 23.** The order dated 08.11.2024 permitted the listing of new equity shares (Paragraph 18.4D) based on the Applicants' original plan to maintain public shareholding. However, the Applicants now submit that this is neither possible nor feasible, and they seek to forgo this relief.
- 24.** Regulation 32(e) of the IBBI (Liquidation Process) Regulations, 2016, allows the sale of a corporate debtor as a going concern, which does not mandate the listing of shares unless required by the acquisition plan or regulatory framework. Here, the Applicants' revised stance does not violate any statutory provision, as the SCR Rules' public shareholding requirement is inapplicable in the absence of existing shareholders.
- 25.** The Tribunal notes that the Stock Exchanges had already suspended trading in the Company's shares on 18.06.2024 due to the liquidation process. Thus, delisting the




extinguished shares formalizes an existing reality without affecting market dynamics.

- 26.** The Applicants have demonstrated that compliance with the listing requirement is not feasible due to the extinguishment of all existing equity shares, which eliminated public shareholders. This practical difficulty was realized post-order upon legal advice, and the Applicants promptly approached this Tribunal for relief.
- 27.** The Liquidator, after consultation with the Stakeholders Consultation Committee, has no objection to the reliefs sought, confirming that they do not prejudice stakeholders' interests. Further, the Income Tax Department has also recorded no objection for the relief sought by the applicants in the present IA.
- 28.** The objective of the IBC is to promote resolution and revival of distressed companies while maximizing value for stakeholders. The Applicants' acquisition of the Company as a going concern aligns with this objective. Forcing compliance with an impractical listing requirement could jeopardize the revival process, contrary to the IBC's intent.



29. Further, Hon'ble NCLAT vide order dated 04.04.2025 has rejected the Company Appeal (AT) (Ins.) No. 1104/2024) filed by Subhlaxmi Investment Advisory Pvt. Ltd and affirmed the liquidation order passed by this Tribunal.
30. In view of the above, this Tribunal is of the view that there is merit in the present application and there is no legal impediment for allowing the prayers sought in the present application in pursuance of the Hon'ble NCLAT judgment dated 04.04.2025 passed in Company Appeal (AT) (Ins) No. 1104 of 2024 & I.A. No. 3997 of 2024.
31. Accordingly, the following directions are issued: -
- (a) The Applicants are permitted to forgo the relief and concession contained in Paragraph 18.4.D of the order dated 08.11.2024 in IA/1338(AHM)/2024, and the new equity shares of Sintex Plastic Technology Limited need not be listed on the Stock Exchanges.
 - (b) The existing equity shares of the Company, which have already been extinguished vide the order dated 08.11.2024, are deemed to be automatically delisted from the Stock Exchanges.
 - (c) The Applicants shall ensure compliance with all other conditions and obligations outlined in the order dated



08.11.2024, except as modified herein, to facilitate the Company's revival and operations as a going concern.

(d) The Applicants and the Liquidator shall inform the relevant regulatory authorities, including the Stock Exchanges, Securities & Exchange Board of India and Income Tax Department, of this order within 7 days from the date of order to ensure procedural compliance with delisting formalities, if any.

32. Accordingly, the application being **IA/335(AHM)2025** is allowed and disposed of with no order as to costs.

33. The Registry is directed to communicate a copy of this order to the Applicants, the Respondent/Liquidator, and the Principal Commissioner of Income Tax (PCIT-3), Ahmedabad, for information and compliance.

34. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sdf

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Sdf-

SHAMMI KHAN
MEMBER (JUDICIAL)