

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II**

**Hearing Through: VC and Physical (Hybrid) Mode**

**CORAM: SHRI.RAJEEV BHARDWAJ- HON'BLE MEMBER (J)**

**CORAM: SHRI.SANJAY PURI, - HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 20.12.2023 AT 10:30 AM**

<b>TRANSFER PETITION NO.</b>	
<b>COMPANY PETITION/APPLICATION NO.</b>	<b>IA (IBC)/1774/2023 in CP (IB) No.06/7/HDB/2019</b>
<b>NAME OF THE COMPANY</b>	<b>Speck Systems Ltd</b>
<b>NAME OF THE PETITIONER(S)</b>	<b>IDBI Bank Ltd</b>
<b>NAME OF THE RESPONDENT(S)</b>	<b>Speck Systems Ltd</b>
<b>UNDER SECTION</b>	<b>7 of IBC</b>

**ORDER**

**IA (IBC)/1774/2023**

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, COURT - II**

**IA No.1774 of 2023**

**in**

**CP(IB) No. 06/7/HDB/2019**

*[Under Section 33(2) r/w Section 34 of the Insolvency & Bankruptcy Code, 2016]*

**In the matter of IDBI Bank Limited Vs. M/s. Speck Systems  
Limited**

Raghu Babu Gunturu  
Resolution Professional  
For M/s. Speck Systems Limited.  
1<sup>st</sup> Floor, Golden Heights,  
Plot No.9, Opp: Raheja IT Mindspace,  
Huda Techno Enclave, Madhapur-500081,  
Hyderabad.

.... Applicant/Resolution Professional

**Date of Order: 20.12.2023**

**CORAM:**

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)  
Sri Sanjay Puri, Hon'ble Member (Technical)

**Counsel/Parties present:**

For the Applicant

: Mr. Amir Bavani and Ms. Rishika Kumar

**[PER: BENCH]**

**ORDER**

1. The present application is filed by Mr. Raghu Babu Gunturu (herein after referred to as 'Applicant/RP') under Section 33(2) of IBC 2016 for Liquidation of M/s Speck Systems Limited (herein after referred to as 'Corporate Debtor') and appointment of Mr. K Vatsa Kumar (Reg.No. IBBI/IPA-002/IP-N00922/2019-2020/12980) as the Liquidator.
  
2. The facts necessary for the disposal of the present application are:
  - a) The Corporate Debtor was admitted into CIRP vide order dated 02.09.2021 by this Adjudicating Authority wherein Mr. Raghu Babu Gunturu was appointed as the Interim Resolution Professional (IRP) and subsequently, the Applicant was confirmed as the Resolution Professional by the Committee of Creditors ("CoC") in the 1<sup>st</sup> CoC meeting held on 06.10.2021.
  
  - b) Subsequently as a part of CIRP, Form-G was published and three Prospective Resolution Applicants ('PRAs') were called for presenting their plans.

- c) It is further submitted that in the 9<sup>th</sup> and 10<sup>th</sup> CoC meetings held on 02.05.2022 and 05.05.2022 respectively, re-negotiations with the PRAs were held wherein CoC members have in detail negotiated and deliberated on all 3 plans. Thereafter, the CoC decided to call for revised plans from all 3 PRAs within 3-4 working days incorporating revised terms.
- d) Meanwhile, it is submitted that in the 11<sup>th</sup> CoC meeting dated 17.05.2022, the CoC was shared with the draft transaction audit report and discussions took place on the same. Further, in the said meeting after discussing and deliberating upon the Resolution Plans, CoC decided to vote upon all.
- e) Meanwhile, a further extension by 30 days was granted by this Adjudicating Authority vide order dated 10.06.2022 and the Resolution Plan of M/s Pasura Crop Care Private Limited (' Pasura') was approved on 29.06.2022 by the CoC with 67% of votes.
- f) On 02.07.2022, the Applicant filed an Avoidance Application (IA No. 640 of 2022) and a Resolution Plan Approval Application (IA No. 641 of 2022) before this

Adjudicating Authority. The applicant aware of an Order on 29.11.2022 regarding the pursuit of the Avoidance Application, sought confirmation from Pasura that they would not pursue it. Pasura agreed via email on 03.12.2022, leading to the filing of an affidavit on 05.12.2022. However, on 21.12.2022, State Bank of India, a CoC member, intended to pursue the IA as per the Joint Lenders Meeting minutes.

- g) This Adjudicating Authority advised amending the Resolution Plan, and the Applicant informed Pasura, requesting prompt submission. Despite subsequent reminders on 29.12.2022 and 02.01.2023, Pasura requested a week's extension on 03.01.2023.
- h) Thereafter, on 03.01.2023, this Adjudicating Authority, considering the prevailing circumstances and CIRP timelines, granted leave to the Applicant to withdraw the IA No.641 of 2022 pertaining to the approval of the Resolution Plan with a liberty to submit a fresh Resolution Plan in conformity with the amendments, thereby extending the CIRP timelines by 7 months with effect from 04.07.2022 till 04.02.2023.

- i) Thereafter, vide email dated 18.01.2023, Pasura submitted a letter regarding the revised Resolution Plan to which vide email dated 18.01.2023, the Applicant apprised Pasura that a meeting would be convened for deliberation upon the same.
- j) In the 14<sup>th</sup> adjourned CoC meeting held on 03.02.2023 the Applicant informed the CoC members that Pasura has categorically stated that they are not proposing any further changes to the revised resolution plan as submitted on 02.02.2023, vide their email dated 03.02.2023.
- k) Further, in the said meeting, the Applicant informed the members of the CoC that Pasura has made several material changes to the plan wherein several clauses were conditional in nature, which are against the provisions of the Code.
- l) Thereafter, on 15.02.2023, Pasura over an email to RP, sought the status of the revised Resolution Plan submitted by Pasura on 02.02.2023 as a reply, the Applicant informed about the extension of CIRP period to Pasura and requested to modify the Resolution Plan

and rectify the terms in compliance to the provisions of the Code. Accordingly, Pasura submitted a revised plan on 20.03.2023 and the same was shared with the CoC members to discuss and vote upon the said Plan in the 15<sup>th</sup> CoC meeting held on 20.03.2023.

- m) The CoC members resolved to vote upon the revised plan submitted on 20.03.2023, subsequently after many deliberations and extension of CIRP, voting on the Resolution Plan was launched on 25.04.2023 and the last date for casting votes was fixed as 30.06.2023.
- n) Meanwhile, the Promoter of the Corporate Debtor has filed an application, bearing IA No. 1048 of 2023, seeking time to submit a Resolution Plan as MSME promoter of the Corporate Debtor. Accordingly, this Adjudicating Authority allowed the application and permitted the Promoter to submit the Resolution Plan to the RP within 20 days from the date of Order i.e. 17.07.2023 directing that the voting on the existing Resolution Plan to be stopped till the Resolution Plan submitted by the Promoter of the Corporate Debtor, is considered by the CoC.

- o) The MSME promoter of the Corporate Debtor, Mr. K.C.M. Kumar has submitted his Resolution Plan to the Resolution Professional on 04.08.2023.
- p) During discussions on the Promoter Director's plan, the RP sought Pasura's commitment to remain in the EOI process, with Pasura expressing their dedication as a Resolution Applicant. Pasura affirmed they would fulfill performance security obligations upon receiving a fresh Letter of Intent from the RP. In adherence to RFRP terms and the Code, the RP returned the security performance paid by Pasura. The Applicant notified CoC members that the Promoter Director's plan deviated from RFRP terms regarding Earnest Money Deposit (EMD) and performance security. The RP emailed the Promoter Director on 07.08.2023, highlighting non-compliance and seeking clarification. In response, the Promoter Director, on 09.08.2023, requested a waiver for two RFRP conditions related to EMD and performance security. Subsequently, the RP communicated the necessity of adhering to RFRP terms.

- q) In the 19<sup>th</sup> CoC meeting was held on 28.08.2023 wherein it was resolved that the plan submitted by the Promoter Director was not eligible and thereby was rejected. Further, in lieu of rejection of Resolution Plan of MSME Promoter, discussions were held in the meeting regarding moving forward of CIRP. In the meeting, the CoC suggested the RP to move on with the CIRP and call Pasura to submit an updated plan after considering the claim of IFCI Limited and thereupon put the same up for voting.
- r) Thereafter, vide letter dated 12.09.2023, Pasura withdrew from the CIRP and informed that they have decided not to submit Resolution Plan and requested the RP to return the EMD amount.
- s) Consequently, the CoC decided to initiate the liquidation process and the RP initiated e-voting on 26.09.2023, open until 25.10.2023. The results, revealed on 26.10.2023, indicated that CoC members, representing 90.29% of the voting share, voted in favour of initiating Liquidation of the Corporate Debtor and members representing 55.48% of the voting share voted

in favour for the recommendation of Mr. K. Vatsa Kumar as the Liquidator of the Corporate Debtor.

t) In view of the above, the CoC members has resolved that -

**"RESOLVED THAT** *pursuant to the provisions of Section 33(2) of Insolvency and Bankruptcy Code, 2016, Members of Committee of Creditors decided for Liquidation of Speck Systems Limited, subject to the approval of Hon'ble National Company Law Tribunal, Hyderabad bench.*

**"RESOLVED THAT** *Members of Creditors' Committee do hereby recommend the appointment of Mr. Vatsa Kumar, IBBI/IPA-002/IP-N00922/2019-2020/12980 as the Liquidator of Speck Systems Limited, subject to the approval of the Hon'ble National Company Law Tribunal...."*

3. The CoC members directed the Applicant to file an application before this Adjudicating Authority under Section 33(2) of the Code to liquidate the Corporate Debtor and decided to appoint Mr. K. Vatsa Kumar as the Liquidator of the Corporate Debtor.

The proposed liquidator has submitted his written consent to act as Liquidator under Section 34 (1) of the Code and IBBI (Liquidation Process) Regulations, 2016.

4. We have heard the Learned RP and perused the record.
5. In view of the facts and circumstances as recorded by RP in IA No.1774 of 2023 filed in CP(IB) No. 06/7/HDB/2019. Since, this Adjudicating Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016 and this Adjudicating Authority deems it proper to allow the Application bearing IA No.1774 of 2023.
6. Accordingly, in exercise of the powers conferred under Sub-Clause (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, we proceed to pass the Order as follows:—
  - i. This Adjudicating Authority hereby order for Liquidation of M/s. Speck Systems Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

- ii. This Adjudicating Authority hereby appoint Mr. K. Vatsa Kumar as Liquidator as resolved by CoC. He has given his consent in Form-2 and holds AFA which is valid up to 03.05.2024. He shall issue a public announcement stating therein that the Corporate Debtor is in Liquidation;
- iii. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of Liquidation;
- iv. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- v. We make it clear that para (iv) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

- vi. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the Liquidation process by the Liquidator.
- vii. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Company Liquidator viz., Mr. Vatsa Kumar. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- viii. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

- ix. The Liquidator shall keep in view of the provisions of Regulation 32A of IBBI (Liquidation Process) Regulations, 2016 and shall endeavour to first sell the Corporate Debtor or its business as a going concern. However, if he is unable to sell the Corporate Debtor or its business within 90 days from liquidation commencement date, Liquidator shall proceed to sell the assets of the Corporate Debtor under clauses (a) to (d) of Regulation 32 of IBBI (Liquidation Process) Regulations, 2016.
- x. The Liquidator shall be entitled to charge such fee for conducting the Liquidation proceedings in accordance with the decision taken by the COC under Regulation 39D of IBBI (Insolvency Resolution Process Corporate Persons) Rules, 2016 r/w Regulation 4(1) of IBBI (Liquidation Process) Regulations, 2016.
- xi. Copy of this Order shall be sent to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. Vatsa Kumar for information and compliance.

- xii. Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.
- xiii. Accordingly, Application bearing IA No. 1774/2023 is allowed and stands disposed of.

**Sd/-**  
**(SANJAY PURI)**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**(RAJEEV BHARDWAJ)**  
**MEMBER (JUDICIAL)**

*Rakesh Kaidala (LRA)*