

**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 06.02.2024 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/1760/2023 in CP (IB) No.14/7/HDB/2020
NAME OF THE COMPANY	Payism Technologies india Pvt Ltd
NAME OF THE PETITIONER(S)	Nune Chiranjeevi Nagaraju & another
NAME OF THE RESPONDENT(S)	Payism Technologies india Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

IA (IBC)/1760/2023

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 - II**

IA No.1760 of 2023

in

CP (IB) No. 14/7/HDB/2020

*[Under Section 33(1)(a) of the Insolvency & Bankruptcy Code, 2016 r/w Rules 11,13 & 32
of the National Company Law, 2016]*

In the matter of

M/S PAYISM TECHNOLOGIES INDIA PRIVATE LIMITED

In the matter of:

Pavan Kankani

Resolution Professional of

Payism Technologies India Private Limited

#302, 3rd Floor, 3-6-140/A, City Center,

Himayat Nagar, Hyderabad – 500 029.

.... Applicant/Resolution Professional

Date of Order: 06.02.2024

Coram:

Hon'ble Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Hon'ble Sri Sanjay Puri, Hon'ble Member (Technical)

Parties / Counsels Present:

For the Applicant

: Mr. **Ravi Charan**

[Per: Bench]

ORDER

I. The instant Application is filed by the Resolution Professional of M/s. Payism Technologies India Private Limited (herein after referred as “**Corporate Debtor/CD**”) under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 r/w Rules 11,13 & 32 of NCLT Rules, 2016, seeking

- i. To Pass an Order for Liquidation of the Corporate Debtor by appointing an Insolvency Professional as Liquidator;
- ii. To direct the Committee of Creditors and the Petitioners of the main Company Petition to clear the dues/ Professional fees as agreed/ approved i.e., Rs. 19,69,527/- pending as of 30.09.2023 in the interest of Justice; and
- iii. To Pass such other Order or Orders which this Hon’ble Tribunal thinks fit and proper in the circumstances of the case.

II. Briefly, the facts of the case are :-

1. The Corporate Debtor i.e., M/s Payism Technologies India Private Limited is a private limited company vide Corporate Identification Number **U72200TG2013PTC091292**, incorporated on the 26.11.2013 and is engaged in the business of information technology and information technology related, internet and internet related, telecommunication, payment gateway, communication systems, satellite and satellite related, software viz DOT- Net, PHP, Java, and software related, computer hardware and hardware related, network and networking

related, m-commerce and m-commerce related, e-commerce and e-commerce related and generally business related computers, computing, and information Technology.

2. This Authority has initiated the CIRP of the CD and vide Order dated 17.06.2022 admitted the Company Petition bearing CP (IB) No.14/7/HDB/2020 by appointing the Applicant herein as Interim Resolution Professional, who was later confirmed as Resolution Professional at the 1st Committee of Creditors (CoC) Meeting held on 16.07.2022.
3. The Applicant herein made a public announcement on 24.06.2022 and called for the claims of Creditors. Further, this Authority while initiating CIRP directed the petitioners to the main Company Petition to pay a sum of Rs. 2,00,000/- towards the advanced fee of the IRP and expenses towards the CIRP but till now nothing has been paid.
4. The Applicant constituted the CoC with two Financial Creditors viz., Mr. Nune Chiranjeevi Nagaraju with an admitted claim amount of Rs. 52,35,000/- with a voting share of 59.89% and Mr. Nune Kiran Kumar with an admitted claim amount of Rs. 35,06,000/- with a voting share of 40.11%.
5. The First CoC meeting was convened on 16.07.2022, where both Financial Creditors present and unanimously approved the budget of the whole CIRP process for the period of 180 days, the remuneration of this Applicant and the appointment of valuers. In the said CoC the Applicant informed the actions which have been taken by him during the process and the expenses incurred for the procedure laid

down under the Code. The same was approved and ratified by the Committee of Creditors.

6. The 2nd meeting of the CoC was convened on 27.08.2022 where the applicant herein put forth a format for the invitation of Expression of Interest (EOI) duly specifying the Criteria for the prospective resolution applicant and the format in Form G for the purpose of publishing the same in the Newspapers. The same was discussed in detail at the meeting and it was duly approved by the CoC.
7. As per regulation 36A of the IBBI (CIRP) Regulations, 2016 and applicable provisions of IBC, 2016, the applicant herein carried out the paper publication to which he has not received any EoI's and the same was intimated to the CoC. Thereafter 3rd CoC meeting was convened on 21.11.2022 where the Applicant informed the CoC that no EoI was received from anyone before the last date of submission and further informed the members that the CIRP period of 180 days was about to expire on 14.12.2022 and guided the CoC to take a decision either to take an extension call for further EoI or liquidate the CD to which they sought time for discussion and kept the matter in abeyance.
8. It is averred that the applicant herein requested the CoC to disburse his fees which was agreed upon as the Applicant was spending for the expenditures and costs of CIRP out of his own pocket. In response to request of Applicant the CoC stated that it has only approved the expenses and fees of Rs. 1,50,000/- which is for the IRP period, and has not approved the fees and expenses of RP. Thereafter, there has been no development in the matter.

9. The CoC sought information with respect to the recoveries from the receivables wherein the Applicant had apprised the fact that IBC is not a recovery forum and cannot be seen as a recovery mechanism as it is a forum to resolve the financial stress of the corporate debtor. However the reply was "they cannot spend any money as nothing has been materialised as of now". The Applicant requested the CoC to replace him with another Insolvency Professional as RP. Against that, the CoC requested the Applicant to defer the matter to the next meeting and it was further assured that the CoC would be meeting the Applicant herein in person prior to the meeting.
10. Thereafter the applicant made several attempts to call the CoC members so that a decision on the matter could be taken and there was no response from the COC members. Further the applicant has made another effort to call the meeting of members of the CoC on 08-02-2023 for the proposed 4th meeting of COC to be convened on 10.02.2023. On the said day the meeting could not be held for want of quorum and the same stood adjourned to 11-02-2023 in terms of regulation 22(2) of IBBI (CIRP) Regulations, 2016, and even in the adjourned meeting, no member of the CoC turned up, as such the 4th meeting of the CoC couldn't be convened.
11. In view of the non-cooperation from the CoC members, the Applicant filed an application i.e., IA. No. 489 of 2023 with a couple of directions and the same was disposed of by this Authority directing the CoC members to Co-Operate. The Applicant apprised the said fact to the CoC over a couple of phone calls against which there was no reply or response from the CoC.
12. On 09.09.2023 the Applicant served a notice to the CoC proposing to conduct the 5th Meeting of the Committee of Creditors on 15.09.2023 with the main agenda items of deciding on further Course of action in view of the fact that no EoI was

received and to ratify and pay the CIRP Costs and fees of IRP and RP as approved in 1st CoC meeting against which there was no response from the members of the CoC.

13. In view of facts and circumstances the Applicant sort this Application U/s 33(1)(a) of IBC 2016, as the maximum period for the completion of CIRP was already over by 14.12.2022 and there were no Resolution Plans received against the Form-G Publication carried by the Applicant.

III. We have heard the Learned RP and perused the record.

IV. In view of the facts and circumstances as recorded by RP in IA No. 1760 of 2023 filed in CP (IB) No. 14/7/HDB/2020, since this Authority did not receive any Resolution Plan under Sub-Section (6) of Section 30 of the I&B Code, 2016, and therefore it is deemed fit to allow the Application bearing IA No.1760/2023. Accordingly, in exercise of powers conferred under Sub-Section (1)(a) of Section 33 of the I&B Code, 2016, we proceed to pass the Order as follows:—

- i. Liquidation of **M/S PAYISM TECHNOLOGIES INDIA PRIVATE LIMITED**, is hereby ordered, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- ii. **Mr. Kasi Srinivas, IBBI/IPA-003/IPA-ICAI-N-00237/2019 -2020/12840** is appointed as Liquidator holding AFA which is valid up to 24.10.2024. She/ 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. Kasi Srinivas**. 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 her 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 she 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. The CoC shall clear the dues/professional fees as agreed/approved i.e., Rs.19,69,527/- pending as of 30.09.2023
- xii. 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. Kasi Srinivas for information and compliance.
- (i) Registry is directed to furnish a copy of this order to IBBI for confirmation of appointment of Liquidator.
- (ii) Accordingly, Application is allowed and stands disposed of.

SD/-

Sanjay Puri, Member

(Technical)

SC/RK

SD/-

Rajeev Bhardwaj, Member

(Judicial)