

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 08.11.2019

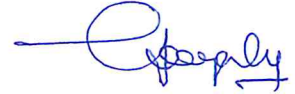
CAUSE LIST - 2

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 42/BB/2017	For hearing IA 582/ 19 - Liquidation	Rule-7(1) of I&B Code 2016	DCS International Pvt. Ltd.	Thirupal Gorige, Liquidator		Saravana P Advocate,

ADVOCATE FOR PETITIONER/s:

THIRUPAL GORIGE
LIQUIDATOR - CD
9448284064



ADVOCATE FOR RESPONDENT/s:

ORDER

Heard Shri Thirupal Gorige, learned Liquidator. C.P.(IB)No.42/BB/2017 is disposed of by separate order along with I.A.No.582/2019.



MEMBER (T)



MEMBER (J)

Verified

Shruthi


Court Officer

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB) No.42/BB/2017
U/s 10 of IBC, 2016
R/w Rule 7(1) of I&B (AAA) Rules, 2016

&
I.A. No.582 of 2019 in
C.P. (IB) No.42/BB/2017
Under Section 54(1) of IBC, 2016

Shri Thirupal Gorige
Liquidator of
M/s. DCS International Private Limited
No. 87, 2nd Floor, 21st Cross,
7th Main, N.S. Palya, BTM 2nd Stage,
Bengaluru – 560 076

- Applicant/Liquidator

IN THE MATTER OF:

M/s. DCS International Pvt. Ltd.
(Under Liquidation)
Regd. Off: No.18/2, Sreenivasa Industrial Estate,
7th Mile, behind Metro Kanakapura Road,
Konanakunte, Bengaluru – 560 062

- Corporate Applicant

Date of Order: 08th November, 2019

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Corporate Applicant : Shri Thirupal Gorige, Liquidator

ORDER

Per: Shri Ashutosh Chandra, Member (Technical)

1. I.A. No.582 of 2019 in C.P. (IB) No.42/BB/2017 is filed by Shri Thirupal Gorige (hereinafter referred to as the 'Applicant/Liquidator') on behalf of the Corporate



Applicant, i.e., DCS International Private Limited, under Section 54(1) of the IBC, 2016 by inter alia seeking for dissolution of the Corporate Applicant.

2. Brief facts of the case, as mentioned in the instant Application, which are relevant to the issue in question, are as follows:

(1) M/s DCS International Private Limited (hereinafter referred to as 'Corporate Applicant') was incorporated on 12.04.2004 under the provisions of Companies Act, 1956 with the Corporate Identity Number: U18101KA2004PTC033728 and having its registered office at No.18/2, Srinivasa Industrial Estate, 7th Mile, behind Metro Kanakapura Road, Konanakunte, Bengaluru-560062. The main objects of the Company inter alia are to carry on in India or elsewhere the business as manufacturers, producers, processors, importers, exporters, agents, brokers, whole sellers, showroom owners, retailers, distributors, exchangers, traders, buyers, sellers, job workers, stockist', etc. The Authorised Share Capital of the Company is ₹50,00,000/- (Rupees Fifty Lakh only) divided into 5,00,000 (Five Lakh only) Equity Shares of ₹10/- each. The Issued, Subscribed and Paid-up capital of the Company is ₹45,00,000/- (Rupees Forty Five Lakh only) divided into 4,50,000 (Four Lakh Fifty Thousand only) Equity Shares of ₹10/- (Rupees Ten only) each. The Company has filed the audited financial statements and annual returns upto 31st March, 2017.

(2) In this case C.P. (IB) No.42/BB/2017 was filed by Corporate Applicant under Section 10 of the IBC, 2016 read with Rule 7(1) of the I&B (Application to Adjudicating Authority) Rules, 2016 by inter alia seeking to initiate CIRP in accordance with the Board Resolution passed on 29th May, 2017. Accordingly, the Adjudicating Authority admitted the case by an order dated 10.07.2017 by initiating CIRP and appointing IRP namely



Shri Thirupal Gorge, having Registration No.IBBI/IPA-02/IP-N00016/2016-17/10030, imposing moratorium, etc.

- (3) Since no Resolution Plan was received and revival of the Corporate Applicant was not possible, the Committee of Creditors at their Second Meeting held on 07.09.2017 unanimously decided to file for liquidation of the Corporate Applicant under Section 33 of the IBC, 2016. On 17.11.2017, the application for initiation of liquidation was allowed and the Resolution Professional was appointed as the Liquidator.
- (4) As per the directions of this Tribunal, the Liquidator made a public announcement as per Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 in 'The Hindu', English Newspaper and 'Udayavani', Kannada newspaper on 26th November, 2017 informing that the Company is under liquidation and seeking claims from stakeholders on or before 23rd December, 2017. The list of Stakeholders was filed before the Tribunal on 23.02.2018. On the same day, the Asset Memorandum as per Regulation 34 of the IBBI (Liquidation Process) Regulations, 2016 was also filed by the Liquidator.
- (5) In pursuance to Regulation 35 of the Liquidation Regulations, the Liquidator appointed two registered valuers viz., M/s. BSC Associates, Registered Valuers and Mr. B.V. Bhat, Chartered Engineer, for valuation of assets of the Corporate Applicant. On the basis of the Registered Valuers' reports, the Liquidator valued its assets at ₹1,38,63,215/- (Rupees One Crore Thirty Eight Lakh Sixty Three Thousand Two Hundred Fifteen only) but estimated the realisable value of the assets after sale at ₹85,38,034/- (Rupees Eighty Five Lakh Thirty Eight Thousand and Thirty Four only).
- (6) The progress reports prepared from time to time were submitted by the Liquidator to the Tribunal as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016. During the first and second quarters of

liquidation process the assets as listed in the asset memorandum were liquidated. The Liquidator opted for private sale option instead of auction process, as most of the assets of the Corporate Applicant were burnt in a fire accident and hence, not in good condition. The iron and steel had become rusted and perishable due to the fire and the assets could have got rusted further if not sold immediately, resulting in substantial deterioration of its value. It is stated in the Asset Sale Report at page 114 of the Application that the Liquidator strived to sell the assets at value higher than the estimate by the Registered Valuers. It is stated that the 'Actual Sales Value' of the Assets was ₹32,43,100/- (Rupees Thirty Two Lakh Forty Three Thousand and One Hundred only). Particulars of total Receipts and Payments in the Liquidators Account from the date of commencement of liquidation to the date of distribution are as follows:

RECEIPTS	AMOUNT (₹)	PAYMENTS	AMOUNT (₹)
<i>I. Opening Balances: (Bank Balance)</i>	53,85,540.14	<i>I. Expenses & Payments:</i>	
		a. Payment for Valuation Reports	38,000.00
<i>II. Receipts from sale of assets</i>		b. GST Payment	5,00,402.00
AJ Enterprises	30,000.00	c. Payment to Auditor	39,500.00
B.A.S. Sewing Machines	57,000.00	d. Newspaper Advertisement	88,274.00
Global Sewing System	90,000.00	e. Payment to CDBT	36,018.00
Global Sewmeck	24,67,400.00	f. Rent Expense	41,000.00
Lakshmi Creation	30,000.00	g. Payment to Workmen having Syndicate Bank Account	8,22,178.00
Mandovi Motors	5,50,000.00	h. Payment to EPFO	48,21,500.00
OM Apparels	1,70,000.00	i. Bank Charges	15,808.05
Shushruti Souharda	34,000.00	j. Payment to Workmen having Syndicate Bank Account	17,47,195.00
Sy Bank	1,25,867.00	k. Payment to Liquidator	6,08,138.00
Tauruz	47,861.00	l. Legal Expense	40,000.00

Thalanki	6,000.00	m. Auditing Expense	17,700.00
		n. Unclaimed- DD drawn Public account of India	43,371.00
		o. Forensic Audit	94,400.00
		p. Conveyance, Documentation, Fee, Legalisation, other miscellaneous expenses	40,184.09
		<i>II. Closing Balances</i>	0.00
Total	89,93,668.14		89,93,668.14

(7) After meeting the expenses of the CIRP and liquidation process, the amount realized was distributed proportionately to the workmen, being in next priority, in accordance with provisions of Section 53 of the Code. It is stated that thereafter, no further amount was left with the Liquidator to distribute among other stakeholders in the queue. The bank account of the Corporate Applicant was closed on 04.06.2019 and the Final Report as per Regulation 45 of IBBI (Liquidation Process) Regulations has been submitted by the Liquidator.

3. Heard Shri Thirupal Gorige, Liquidator of DCS International Private Limited. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.
4. From a perusal of the details narrated supra, it appears that the Ld. Liquidator has complied with all the conditions and procedural requirements, as specified under various provisions of Section 54 of the Insolvency & Bankruptcy Code, 2016 and also the extant IBBI Regulations. We have also considered the manner in which the available assets have been dealt with prior to the dissolution of the Corporate Applicant. It is seen from the Receipts and Payments Account furnished that the entire amount in Bank and receipts from sale of assets, totalling ₹89,93,668.14/- have been utilised to defray various statutory and other expenses, including payment to workmen, leaving no balance for distribution to some stakeholders. In view of this factual matrix, we



are of the view that the said I.A. No.582 of 2019 seeking dissolution of the Corporate Applicant, deserves to be allowed, as prayed. As the I.A. No.582 of 2019 is disposed of allowing dissolution of the Corporate Applicant, consequently the C.P. (IB) No.42/BB/2017 also stands disposed of.

5. In the result, in exercise of the powers conferred on the Adjudicating Authority, under Section 54 of the Code, the Interim Application bearing I.A. No.582 of 2019 and C.P. (IB) No.42/BB/2017 are hereby disposed of with the following directions:

(1) *Vide this Order the Corporate Applicant namely M/s. DCS International Private Limited is dissolved, with immediate effect;*

(2) *The Registry is directed to forward a copy of this Order to the Registrar of Companies Karnataka, Bangalore, within a period of two weeks from the date of receipt of this order, for further necessary action as prescribed under Law;*

(3) *The Ld. Liquidator is also directed to forward copies of this Order to all other statutory authorities connected with the affairs of the Company, for further necessary action as prescribed under Law.*

(4) *With this I.A., C.P. (IB) No.42/BB/2017 also stands disposed of.*

ASHUTOSH CHANDRA
MEMBER, TECHNICAL

RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL