

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -II)
KOLKATA**

**IA(IBC)/1067(KB)2022
in
CP(IB)/590(KB)2020**

Under section 33 of the Insolvency & Bankruptcy Code, 2016

In the matter of:

Tata Capital Financial Services Limited

.... Financial Creditor

Versus

G.I. International Private Limited
(U29253WB2011PTC163890)

.... Corporate Debtor

And

In the matter of:

Mr. Dhiren S. Shah,
Resolution Professional of G.I. International Private Limited

... Applicant

Order reserved on: 20/04/2023

Order pronounced on: 26/06/2023

Coram:

Smt. Bidisha Banerjee	:	Member (Judicial)
Shri Balraj Joshi	:	Member (Technical)

Appearances (through hybrid mode):

For RP	:	Mr. Avishek Guha Adv. Mr. Chitresh Saraogi, Adv. Ms. Arunika Dutta, Adv. Mr. Dhiren S. Shah, RP in person
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For R-1 in IA/893/2022	:	Mr. Arani Guha, Adv.
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ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.
2. **IA(IBC)/1067(kb)2022** is an application filed under section 33 of the Insolvency and Bankruptcy Code, 2016 (in short “**IBC**”) by the Resolution Professional (“**RP**”) of **G.I. International Private Limited**, the Corporate Debtor, praying for liquidation of the Corporate Debtor. This application is supported by an affidavit¹ duly affirmed by Mr. Dhiren S. Shah, the RP.
3. This Adjudicating authority, on a petition filed u/s. 7 of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Tata Capital Financial Services Limited, the Financial Creditor, *vide* order² dated 19/05/2022 in CP(IB)/590(KB)2020, had ordered initiation of CIRP against G.I. International Private Limited, the Corporate Debtor. Mr. Dhiren Shantilal Shah was appointed as the Interim Resolution Professional (“**IRP**”). The said order was duly communicated to the IRP by the Registry.
4. In terms of section 15 of the IBC, Public Announcements³ in **Form A** was published in “*Times of India*” (English) and “*Bartaman*” (Bengali) on 21/05/2022 inviting claims from the creditors and duly formed Committee of Creditors⁴ (in short “**CoC**”) on 10/06/2022. A report⁵ on constitution of CoC was submitted. 1st meeting of the CoC was held on 17/06/2022. At the said 1st meeting of the CoC held on 17/06/2022, IRP was appointed as RP. Minutes⁶ of the 1st meeting of CoC was annexed with the application.

¹ At pages 17 and 19 of the application

² Annexure A at pages 21 to 36 of the application

³ Annexure C at pages 11 to 13 of the Supplementary Affidavit

⁴ Annexure B at pages 5 to 10 of the Supplementary Affidavit

⁵ Annexure B at pages 37 to 39 (also true copy at pages 37A to 39A) of the application

⁶ Annexure C at pages 40 to 43 of the application

5. 2nd CoC meeting was held on 01/07/2022. Apart from usual business being carried out, following important agenda was discussed and resolved:
- (a) Approval of minutes of 1st CoC meeting;
 - (b) Briefing on activities and affairs of the corporate debtor; and
 - (c) Appointment of transaction auditors.

A copy of the minutes⁷ of the 2nd CoC meeting was annexed with the application.

6. 3rd CoC meeting was held on 26/07/2022. Having regard to the Corporate Debtor's asset position, it transpired to the CoC that nothing material would be releasable, the CoC at the said 3rd CoC meeting unanimously resolved, inter alia, to liquidate the Corporate Debtor and passed the following resolutions:

“RESOLVED THAT in accordance with provisions of Section 33 of the Insolvency and Bankruptcy Code 2016 the Committee of Creditor hereby approve the Liquidation of GI International Private Limited, the Corporate Debtor.”

“RESOLVED THAT the Resolution Professional be and is hereby authorized to file an application with the Hon'ble National Company Law Tribunal for Liquidation of Corporate Debtor along with other Forms/reports/documents as may be prescribed under the Code or regulation and do all such things as are necessary for giving effect to this resolution.”

A copy of the minutes⁸ of the 3rd CoC meeting was annexed with the application.

7. At the 4th CoC meeting held on 01/08/2022 the liquidation cost and fee payable to the Liquidator was discussed, finalized and approved by the CoC. A copy of the minutes⁹ of the 4th CoC meeting was annexed with the application.
8. The applicant has duly submitted Compliance Certificate¹⁰ dated 20/02/2023 in

⁷ Annexure D at pages 44 to 46 of the application

⁸ Annexure E at pages 47 to 49 of the application

⁹ Annexure F at pages 50 to 52 of the application

¹⁰ Annexure B at pages 5 to 10 of the Supplementary Affidavit

Form H with regard to the CIRP of the Corporate Debtor.

9. In terms of section 34 of the IBC 2016 and under regulation 3 of the IBBI (Liquidation Process) Regulations, 2016, the RP has given his consent¹¹ in Form AA to act as the Liquidator of the Corporate Debtor.
10. It is to be noted here that the 180 days CIRP period has ended on 15/11/2022 and no application for extension of the CIRP period has been filed.
11. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
12. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.
13. This Bench, therefore, hereby orders as follows: -
 - a. IA(IBC)/1067(KB)2022 filed by **Mr. Dhiren S. Shah, RP of G.I. International Private Limited**, the Corporate Debtor, is allowed. Consequently, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. **Mr. Dhiren S. Shah [Reg. No. IBBI/IPA-001/IP-P00220/2017-2018/10419] of B-102, Bhagirathi Niwas, Near Natraj Studio, Sir M. V. Road, Andheri - East, Mumbai 400069, having e-mail i.d. dss@dsshah.in / ip@dsshah.in, Mobile No. 98200 73090** is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency

¹¹ Annexure G at page 53 of the application

Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., in “*Times of India*” (English) and “*Bartaman*” (Bengali) stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this

Order with the **Registrar of Companies, West Bengal**, within whose jurisdiction the Corporate Debtor is registered. Additionally, the **Registry** shall also forward a copy of this Order to the **Registrar of Companies, West Bengal**.

14. The application bearing **IA(IBC)/1067(KB)2022** shall stand disposed of in accordance with the above directions.
15. **CP(IB)/590(KB)2020** is to come up for filing of Periodical Progress Report on **19/07/2023**.
16. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
17. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 26th day of June, 2023.

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