

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI C-IV**

CP (IB) No. 178/MB/2022

Under section 10 of IBC, 2016

In the matter of

Arkcom Telecommunications Private Limited,
(CIN- U64204MH2017PTC295430)

212/A, C Wing, Kailash Indl. Complex
Hiranandani Link Road Mumbai Mumbai City
Mh 400079

.... Corporate Applicant

Order delivered on: 25.07.2023.

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner:

Mr. Gaurav K. Gadodia a/w CS
Kamal Lahoty i/b Mukesh Sukhija,
Ld. Counsel for the Petitioner.

Ms. Nikita Abhyankar i/b Gravitas
Legal.

Adv. B. Reis i/b Shehzad Rasiwala,
appeared on behalf of the BSNL.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This Company Petition is filed by Arkcom Telecommunications Private Limited (hereinafter called Corporate Applicant), under Section 10 of Insolvency and Bankruptcy Code 2016 (“the Code”) read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process.

1.1. The applicant Company commenced its operations of providing the ISP services. The applicant applied to the DOT for licence to operate as ISP Category B II the region of Maharashtra. The applicant company received ISP License from DOT Vide License No: DS- 11/419/2017- DS-III. The Corporate Applicant Company is not doing any business activity, since April 2020.

1.2. On the recommendation of the Board of Directors of the Company, the approval of the members of the Company was obtained by way of the Special Resolution in the Extra Ordinary General Meeting held on 23rd December 2021, to make application on u/s 10 -of Insolvency and Bankruptcy Code 2016.

1.3. That the Board of Directors of the Company in their meeting held on 30th December 2021 unanimously proposed to move application u/s 10 of the Insolvency and Bankruptcy Code 2016 to Initiate Corporate Insolvency Resolution Process. Further the Board of Directors in the said meeting, proposed to appoint CA Manmohan Sharma, as Interim Resolution

Professional, to initiate the Corporate Insolvency Resolution Process for the Company.

1.4. The default in payment and the inability of the Company to pay any of its debt has led to the application by the Corporate Debtor for initiating Corporate Insolvency Resolution Process in the matter of self and it has sought approval of its members for filing section 10 petition under the Code vide Special Resolution in the Extra Ordinary General Meeting of the Company convened on 23rd December 2021. (Copy of on Special Resolution attached as Annexure A-11). The Company has stated the details of Creditors in the list of Creditors whose debt is outstanding and unpaid as on date.

1.5. That the Accounts of the Company have been prepared and audited for the year ended 31st March, 2018, 31st March 2019 and 31st March 2020. The operational losses and accumulated losses kept on mounting over the years and the Corporate Applicant found itself unable to pay off its long-standing Operational Creditors, Financial Creditors, Employees etc. The provisional financial statement of the Company is made up to 30th December 2021. That the Corporate Applicant Company is defaulting the payments of its creditors for over 2 (Two) years, accordingly the Board of Directors in their meeting held on 30th December 2021 decided to move application u/s 10 of Insolvency and Bankruptcy Code 2016.

ORDER

2. The petition bearing CP(IB) 178/MB-IV/2022 filed by Arkcom Telecommunications Private Limited, the Corporate Applicant, under section 10 of the IBC read with rule 7(1) of the Insolvency & Bankruptcy (Application

to Adjudicating Authority) Rules, 2016 and that the Corporate Applicant is not disqualified U/s 11 of the Code. Hence, this Bench hereby **admits** this petition, declaring moratorium with consequential directions as mentioned below.

- (i) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Applicant in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.
- (ii) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (iii) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (iv) That the order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Applicant under Section 33, as the case may be.

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- (v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- (vi) That this Bench hereby appoints the proposed Resolution Professional after perusing the written communication in Form 2 dated 10.01.2022 by the RP, MANMOHAN SHARMA, having address at A4/12, Rajasthali Apartments ,Pitampura ,North West, National Capital Territory Of Delhi ,110034 Having **IBBI Registration No. - IBBI/IPA-001/IP-P-02305/2021-2022/13635** and Email- ca.manmohansharma@gmail.com as Interim Resolution Professional to carry the functions as mentioned under the Code.
3. The Registry is hereby directed to communicate this order to the Applicant. The Learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith within 10 days of the order being uploaded on the website.

Sd/-

PRABHAT KUMAR
HON'BLE MEMBER (TECHNICAL)
25.07.2023.

Sd/-

KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)