

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1



ITEM No.303

IA/661(AHM)2023 in CP(IB) 59 of 2019

Proceedings under Section 60(5) IBC,2016 r.w Rule 11 of NCLT Rules,2016

IN THE MATTER OF:

Roopyaa Finbizz Ltd

.....Applicant

V/s

Ramchandra Dallaram Choudhary RP of Doshion Pvt Ltd &

.....Respondent

Ors

Order delivered on: 03/10/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court vide separate sheet.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH -I, AHMEDABAD**

IA/661(AHM)2022 in CP(IB) No. 59 of 2019

[filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 11 Of NCLT Rules, 2016]

Roopyaa Finbizz Limited

702, 7th Floor, Silicon Tower,
B/h Samartheshwar Mahadev,
Law Garden, Ellisbridge,
Ahmedabad, GJ 380006 IN

....Applicant

Versus

1. Ramchandra Dallaram Choudhary

Resolution Professional of
Doshion Private Limited
9B, Vardan Tower, Nr. Vimal House,
Lakhudi Circle, Navrangpura,
Ahmedabad, Gujarat- 380014

2. Committee of Creditors of

Doshin Private Limited
Through Lead member of Committee of Creditors
IDBI Bank Ltd.
IDBI Tower, W.T.C. Complex, Cuffee Parade,
Mumbai- 400005

.....Respondents

In the matter of :-

IDBI Bank Limited

.....Financial Creditor

Versus

Doshion Private Limited

..... Corporate Debtor

Order pronounced on: 03.10/2023.

Coram:

SHAMMI KHAN, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)



Appearance:

For the Applicant : Mr. Arjun Sheth Adv. a/w Mr. Rajiv Chawla
For the Respondent : Mr. Sumit Parekh a/w.
Mr. Vikram Choudhary & Mr. Jigar Shah

ORDER
(Per: Bench)

01. This application is filed by the applicant herein seeking the following prayers:-

(a) Your Lordships may be pleased to allow the present application;

(b) Your Lordships may be pleased to direct the respondent herein to share a copy of the information memorandum and other requisite documents of the Corporate Debtor.

(c) Your lordships may be pleased to permit the applicant to submit the resolution plan with the respondent no.1 after the date of receipt of the Information Memorandum and other requisite documents to the applicant;

(d) Your lordships may be pleased to direct the respondent herein to convene a meeting of the Committee of Creditors so as to consider the Resolution Plan so submitted by the applicant herein in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and other Rules and Regulations framed thereunder;


(e) Your lordships may be pleased to quash and set aside the resolution so passed by the Committee of Creditors for liquidation of the corporate debtor and consequently dismiss IA

No. 769 of 2021 in CP (IB) No. 59 of 2019 filed by the respondent no.1 seeking liquidation of the corporate debtor;

(f) Pending hearing and final disposal of this application, Your Lordships may be pleased to keep hearing of IA No. 769 of 2021 in CP (IB) No. 59 of 2019 which has been filed by the respondent no.1 seeking liquidation of the corporate debtor in abeyance and/or;

(g) Your lordships may be pleased to pass such other and further relief(s) as may deem fit in the interest of justice.

02. The applicant submits that the application is filed under Section 7 of Insolvency & Bankruptcy Code, 2016 was filed by IDBI Bank Ltd. and the same was ordered on 31.08.2021 in CP (IB) No.57/7/NCLT/AHM/2019 and respondent no.1 was appointed as IRP who published the public announcement in Form A regarding initiation of the CIRP Process against the corporate debtor on 12.09.2021. The applicant has filed present IA on June 5, 2023.
03. In the Para 5 of the petition, the applicant states that he is desirous to submit the resolution plan for M/s. Doshion Pvt. Ltd., the corporate debtor and for which they have written a letter which is dated 30.05.2023 to respondent no.1 attached therewith a cheque of Rs.5.00 lacs as security deposit. Respondent no.1 vide e-mail dated 30.05.2023 informed the applicant that the Committee of Creditors (CoC) of the corporate debtor has already resolved to go for liquidation of the corporate debtor and an application has already been



pursued before this Adjudicating Authority and therefore, the respondent no.1 cannot accept the proposal of the applicant.

04. The applicant stated that no Expression of Interest (EOI) in Form G was published by respondent no.1 and the application for liquidation of the corporate debtor has been filed by respondent no.1 herein. The applicant further states that they intend to enter into the business of the corporate debtor and desirous to submit the resolution plan for reviving the corporate debtor and hence, the present application.
05. The Respondent No.1 counsel Mr. Sumit Parekh for the RP appeared and opposed the present application and stated that CoC has already resolved to liquidate the corporate debtor vide the resolution of the CoC meeting dated 08.10.2021. Further, the CIRP period of the corporate debtor is already over and application no. 769 of 2021 is pending on the file of the tribunal for adjudication. The counsel for the respondent further stated that in terms of the judgment of Hon'ble Supreme Court in the matter of ***K. Sashidhar Versus Indian Overseas Bank & Ors*** in Civil Appeal No. 10673 of 2018 has held that the commercial decision of CoC is **non-justiciable**. In this case, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.
06. We have heard both the counsels and perused the documents. IA 769 of 2021 seeking liquidation of corporate debtor was heard and reserved for orders on 21.09.2023. We agree with the contentions of the counsel for the respondent



in the matter that decision of the CoC is non-justiciable and the CoC has already resolved with requisite majority to liquidate the corporate debtor and that the CIRP period of the corporate debtor has already ended on 26.02.2022.

07. The present application has been belatedly filed after the RP has filed an application seeking liquidation of the corporate debtor. We find it strange that on the basis of Form A which is for invitation of claims, the applicant herein without the publication of Form G has filed this application seeking permission to place the resolution plan.
08. We do not find any merit in the present application, the same is hereby **dismissed** with the cost of Rs. 1.00 lac as in our view the present application is frivolous application filed with the sole object of delaying and derailing the process. The applicant has to deposit the cost in the **Prime Minister's National Relief Fund** within a period of 10 days from the date of this order.
09. List the matter for compliance on 25.10.2023.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

Mehul