



IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SPECIAL BENCH – II, CHENNAI

CP/IB/188/(CHE)/2023

(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the  
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

*In the matter of MQ Networks Private Limited*

**MQ Networks Private Limited**

2/7, 1st Main Road,  
5th Cross Street, Thendral Street,  
Thirumullaivoyal,  
CHENNAI - 600 062.

... Corporate Applicant

Order Pronounced on 25<sup>th</sup> September 2024

CORAM

JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)  
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)


For Corporate Applicant: Mithilesh kumar Pandey Advocate

ORDER

Under Consideration is an Insolvency & Bankruptcy Application  
filed u/s 10 of the Insolvency & Bankruptcy Code, 2016 (“the Code”) by  
one MQ Networks Private Limited (in short, “the Corporate Applicant”)

for initiation of Corporate Insolvency Resolution Process (CIRP) under  
Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules,  
2016 (for brevity, ‘I&B Rules 2016’), following a default in meeting the






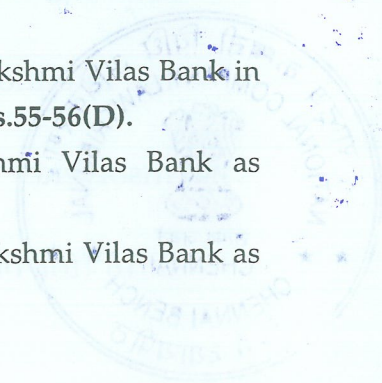
financial obligations to its Financial Creditors and Operational Creditors and other Creditors as shown in the Company Petition filed in Form-VI.

2. In Part-I of the application, it is stated that the Corporate Applicant is a Private Limited company incorporated on 24.04.2000 bearing CIN: U65910TN2000PTC44806 and the Registered Office of the Corporate Applicant as per the application is situated at No.2/7, 1st Main Road, 5th Cross Street, stthendral Street, Thirumullai voyal, Chennai - 600062.

3. In Part-II of the application, it is stated that the Corporate Applicant has proposed one Mr.Ananthachari Mahesh with IP registration No-IBBI/IPA-001/IP-P01723/2019-2020/12673 as the IRP and written consent in Form-2, is placed on record in the typeset filed.

4. Part-III of the application, details about the total amount defaulted as Rs.6,66,99,929.54/- (Rupees Six Crores Sixty Six Lakhs Ninety Nine Thousand Nine Hundred and Twenty Nine and paise fifty four Only) .

The list of documents annexed in the application

- 
- a) Copy of the Sanction Letter dated 22.09.2008 issued by Lakshmi Vilas Bank in favour MQ Networks Pvt.Ltd as Annexure A-6 at page nos.55-56(D).
- b) Copy of the Letter dated 18.10.2008 issued by Lakshmi Vilas Bank as Annexure A-8 at page no.66.
- Copy of confirmation letter dated 21.10.2008 issued by Lakshmi Vilas Bank as Annexure A-9 at page no.67-70.
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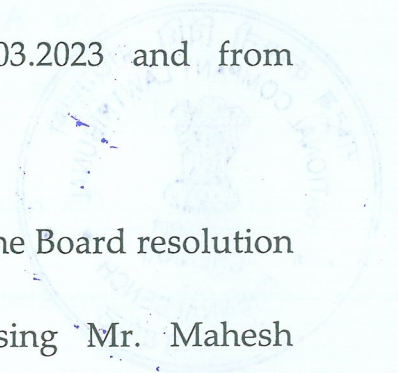


- d) Copy of Term Loan Agreement dated 21.10.2008 executed between MQ Networks Pvt.Ltd and Lakshmi Vilas Bank dated 21.10.2008 as **Annexure A-10 at page no.71-82.**
- e) Copy of Letter of Hypothecation dated 21.10.2008 issued by MQ Networks Pvt.Ltd in favour of Lakshmi Vilas Bank Ltd as **Annexure A-13 at page no.95-96.**
- f) Copy of Letter of Guarantee dated 21.10.2008 executed by Mr.M.S. Mahesh as **Annexure A-15 at page no.106-110.**
- g) Copy of Letter of Guarantee dated 21.10.2008 executed by Mr.Prasanna Vasantha Kumar as **Annexure A-16 at page no.111-115.**
- h) Copy of Letter of Guarantee dated 21.10.2008 executed by Mr.J. Ramesh as **Annexure A-17 at page no.116-120.**
- i) Copy of Letter dated 26.06.2009 issued by Lakshmi Vilas Bank as **Annexure A-18 at page no.121-124.**
- j) Copy of Rescheduling Agreement(Supplementary Term Loan Agreement) dated 26.06.2009 as **Annexure A-20 at page no.126-128.**
- k) Copy of Loan Agreement dated 27.06.2009 executed by MQ Networks Pvt Ltd in favour of Lakshmi Vilas Bank as **Annexure A-27 at page no.143-155.**
- l) Copy of Letter of Guarantee dated 27.06.2009 executed by Mr.M.S. Mahesh as **Annexure A-31 at page no.178-182.**
- m) Copy of Letter of Guarantee dated 27.06.2009 executed by Mr.Prasanna Vasantha Kumar as **Annexure A-32 at page no.183-187.**
- n) Copy of Letter of Guarantee dated 27.06.2009 executed by Mr.J. Ramesh as **Annexure A-33 at page no.188-192.**
- o) Copy of Channel Placement Agreement dated 27.02.2009 executed between MQ Networks Pvt Ltd and DEN Networks as **Annexure A-38 at page no.255-265.**

5. The Applicant has filed audited financial statements for the year ended 31.03.2021 & 31.03.2022, 31.03.2022 to 31.03.2023 and from 01.04.2023 till 31.07.2023.

6. The Applicant Company has placed on record the Board resolution on 04.08.2023 of MQ Networks Pvt.Ltd authorising Mr. Mahesh

Muthuganapathy Saroja to file the present application for initiating





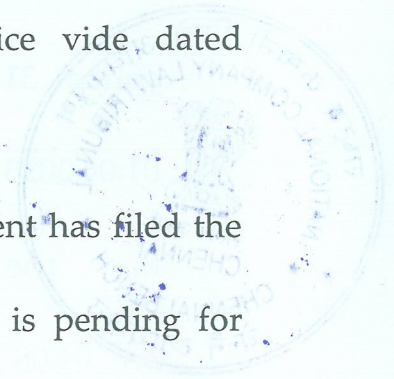
Corporate Insolvency Resolution process under Section 10 of the Code against the Corporate Applicant. The Applicant Company has also placed on record the Board resolution on 04.08.2023 of MQ Networks Pvt.Ltd authorising Mr. Mithilesh Kumar Pandey to accept the service of the present application on its behalf for initiating Corporate Insolvency Resolution process under Section 10 of the Code against the Corporate Applicant.


7. The Corporate Applicant has also filed the resolution passed in extra ordinary general Meeting dated 04.08.2023, in which it is unanimously resolved to initiate CIRP against the corporate Applicant as per section 10 of IBC.

8. This Tribunal vide order dated 28.11.2023 directed the applicant to serve the copy of the application to the Secured and Unsecured Creditors and Income tax department and file affidavit of Service.

The Applicant has filed an Affidavit of Service vide dated 15.12.2023.

On receipt of the application Income tax department has filed the objection stating that total amount of Rs 13,95,14,683/- is pending for





assessment from year 2009-2018 and requested that Income tax department to be treated as a secured creditor.

10. Heard to contentions of the learned counsel and perused the document placed on record

11. The aforesaid application is filed by the corporate applicant under section 10 of the Insolvency and Bankruptcy code 2016, to initiate CIRP against the Corporate Applicant MQ networks Private limited.

12. Applicant has filed a memo dated 17.11.2023 and submitted that the limitation doesn't apply to the application under section 10 of IBC, and relied on judgement of Hon'ble supreme court is in *B.K. Educational services Pvt Ltd v Parag gupta and assoiates* which stated that section 238A of IBC is only applicable for section 7 and section 9 applications. We are of the same view as hon'ble Supreme Court that since the section 10 application is filed by the corporate applicant himself and question of limitation doesn't arise.

13. On perusal of Part III of the application it is seen that debt is due for financial creditors namely Lakshmi Vilas Bank, and Operational creditor DEN Networks Limited along with the government dues.

14. For ready reference section 10 of IBC is extracted below,





(1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application furnish the information relating to (a) its books of account and such other documents relating to such period as may be specified; and (b) the resolution professional proposed to be appointed as an interim resolution professional. (c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.]

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order--(a) admit the application, if it is complete; <sup>2</sup>[and no disciplinary proceeding is pending against the proposed resolution professional]; or (b) reject the application, if it is incomplete: <sup>2</sup>[or any disciplinary proceeding is pending against the proposed resolution professional]


Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

15. The corporate applicant has filed copies of balance sheets, the copy of sanction letter dated 22.09.2008 issued by Lakshmi vilas bank, loan agreement dated 21.10.2008. Notice issued by Lakshmi vilas bank dated 18.06.2010 for payment of amount of Rs 4,39,74,660/- which is defaulted by the Corporate applicant.

16. The Corporate applicant has placed on record copy of agreement dated 27.02.2009 executed between DEN networks and order passed by NDSAT in BP/369/2010 dated 25.07.2017 ordering corporate applicant for payment of default amount.

17. Corporate applicant has placed on record copy of special resolution passed by the shareholders of MQ Networks Private limited as mandated under section 10(3) c for initiating CIRP against the corporate applicant.





18. From the above filed documents it is seen that corporate applicant has filed to pay the debt and “defaulted in repayment of amount due and payable to the financial creditor and operational creditor

19. In view of the same, we are of the view that this Company application is required to be admitted u/s 10 of the Code. We order accordingly.

20. The Corporate Applicant has proposed the name of **Mr.Ananthachari Mahesh** having Registration No. **IBBI/IPA-001/IP-P01723/2019-2020/12673**(E-mail ID: *maheshananth@yahoo.com*)as the Interim Resolution Professional (IRP) who has also filed his written consent in Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 which is placed at Page Nos.55 to 56(D) of the typed set filed along with the Application.

21. Though the Corporate Appliacnt has suggested name of **Mr.Ananthachari Mahesh** to appointed as IRP Since the section 10

application is filed is moved Corporate Applicant we are of considered opinion that person suggested by the corporate applicant should not be appointed in the interest of justice of the creditors, hence we thereby appoint **Mr Mathioli Nagarajan** with IBBI Reg no. **IBBI/IPA-**



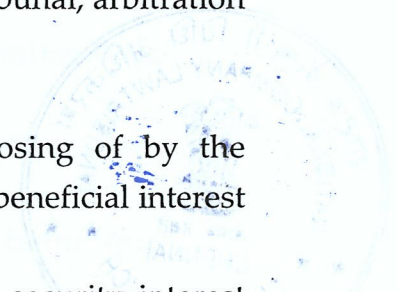


002/IP/N01266/2023-2024/14293 Email ID [nmathioli@gmail.com](mailto:nmathioli@gmail.com) shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench.

22. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

23. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- b. Transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;
- c. Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property including any





action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.

*Explanation.*-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

24. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

- (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

- (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

The provisions of sub-section (1) shall not apply to





- (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
- (b) a surety in a contract of guarantee to a corporate debtor.

25. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

26. The Corporate Applicant is directed to pay a sum of **Rs.2,00,000/- (Rupees Two Lakh Only)** to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

27. Based on the above terms, the Petition stands **admitted** in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate





Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

-SD-

VENKATARAMAN SUBRAMANIAM  
MEMBER (TECHNICAL)

-SD-

JYOTI KUMAR TRIPATHI  
MEMBER (JUDICIAL)

Order Pronounced under Rule 151 of NCLT Rules 2016, by Hon'ble Judicial Member, Shri Jyoti Kumar Tripathi on behalf of the Special Bench II Comprising of Shri Jyoti Kumar Tripathi, Member (Judicial) and Shri Venkataraman Subramaniam, Member (Technical).

Certified to be True Copy

Court Officer :



NATIONAL COMPANY LAW TRIBUNAL CHENNAI	
Order No. / Date :	CP(18)/188/2023 dt. 25/09/2024
Certified Copy made Available on :	14/02/2025
Applied for Certified Copy (Applicant / Respondent)	on 13/02/2025
Certified Copy issued on	14/02/2025

R. Gogoi  
14/02/2025  
JOINT REGISTRAR  
NATIONAL COMPANY LAW TRIBUNAL  
CHENNAI BENCH  
CORPORATE BHAVAN, 3rd FLOOR,  
29, RAJAJI SALAI, CHENNAI-600 001

C. A. Applicant Mr. Mathiali Nagarajan.