

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, NEW DELHI
BENCH III**

IA- 17 / (ND)/2021 filed under Section 33(1) of the
Insolvency and Bankruptcy Code, 2016 in **IB-
1445(ND)/2019.**

In the matter of O-Zone Networks (P) Ltd.

Bsmart Tech (P) Ltd.

.....Operational Creditor

Versus

O-Zone Networks (P) Ltd.

.....Corporate Debtor

In the matter of IA-17/ (ND)/2021

Mr. Shyam Arora, Resolution Professional

....Applicant

Versus

Mr. Bobby Sarin & Anr.

.....Respondents

Order delivered on 27th of January 2021.

CORAM:

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
SHRI NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)**

For Applicant : Mr. Vinod Khanna (Advocate)

ORDER

(Through Video Conferencing)

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration is IA- 17 / (ND)/2021 filed by the Resolution Professional viz., *Mr. Shyam Arora* (hereinafter referred to as 'Applicant) under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016").

2. The prayers made by the Applicant in the Application are as follows:

"a) To Order for Liquidation of the Corporate Debtor as per Section 33 (1) of the IBC, 2016 and in terms of decision taken in the 4th CoC Meeting of the Corporate debtor held on 30.12.2020.

b) To appoint the Applicant i.e. Mr. Shyam Arora, Insolvency Professional having Reg. No. IBBI/IPA-002/IPA-N00546/2017-2018/11703

c) Pass any other/further Order (s) which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the matter."

3. Originally an CP (IB)-1445 (ND)/2019 was filed under Section 9 of the IBC, 2016 R/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by the Operational Creditors viz., *Bsmart Tech (P) Ltd* against the Corporate Debtor viz., *O-Zone Networks (P) Ltd*, (hereinafter referred as "Corporate Debtor"). The Corporate Insolvency Resolution Process was initiated against the Corporate Debtor, vide Order dated 04.09.2019 moratorium was declared and an Interim Resolution Professional viz., *Mr. Shyam Arora* was appointed (hereinafter referred as "IRP").

4. It is averred that pursuant to the Order of this Authority the IRP took over the management of the Corporate Debtor and made Newspaper Publication as provided in Section 15 of IBC, 2016 R/w Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors. The IRP collated the claims and constituted the Committee of Creditors on 05.11.2019 (hereinafter referred to as "CoC") with three Operational Creditors as member having voting rights in proportion

to their debts. The 1st CoC Meeting was convened on 11.11.2019, wherein it was resolved to appoint the Applicant as a Resolution Professional.

5. The 2nd CoC Meeting was convened on 28.02.2020 wherein the agenda was to approve CIRP Cost, appointment of Statutory Auditors, Appointment of Lawyers, Appointment of Valuers, Discussion on Information Memorandum, RFRP and EM, Approval of extension of CIRP period. The 3rd CoC was convened on 29.10.2020 wherein CoC resolved to file application for the exclusion of COVID19 period and to seek extension from this Authority. Subsequently, the Applicant published Form-G on 12.11.2020 for inviting Expression of Interest in two newspapers namely "Financial Express" and "Jansatta".

6. The 4th CoC Meeting was convened on 30.12.2020 through video conferencing wherein the CoC passed the following Resolutions and approved with 100% voting share:

"RESOLVED THAT the cost of Rs. 37, 45,090/- towards CIRP expenses incurred by the Resolution Professional for the period from 11.10.2019 till 27.12.2020 be and is hereby approved."

"RESOLVED FURTHER THAT Mr. Shyam Arora, Resolution Professional be and is hereby authorised to make payment towards, CIRP Cost from the Bank Account of the Corporate Debtor open with Punjab and Sindh Bank, Nehru Place."

"RESOLVED THAT approval of the CoC is accorded to Resolution Professional to take steps to for the liquidation of the Corporate Debtor under the applicable provisions of Insolvency and Bankruptcy Code, 2016."

"RESOLVED THAT the approval of COC is accorded to the liquidation of the Corporate Debtor i.e. M/s. O-Zone Networks (P) Ltd. in accordance with the provisions of Section 33 of the IBC, 2016 in absence of receipt of any Resolution Plan for the Corporate Debtor."

"RESOLVED THAT pursuant to Section 34 and other applicable provisions, if any of the Insolvency and Bankruptcy Code, 2016 and the rules and Regulations

made thereunder, the approval of the Committee of Creditors be and is hereby accorded to the appointment of Mr. Shyam Arora, Insolvency Professional (IBBI/IPA-002/IP-N00546/2017-18/11703), be appointed as Liquidator for the liquidation proceedings of the Corporate debtor M/s. O-Zone Networks (P) Ltd and to carry out the functions entrusted by the provisions of IBC, 2016 and Rules and Regulations made thereto, in the matter of Liquidation Process of M/s. O-Zone Networks (P) Ltd."

"RESOLVED THAT the approval of the CoC be and is hereby accorded for the remuneration of the Liquidator for regulation 39 (D) clause a, b, c of the CIRP Regulations of IBBI @Rs. 1,50,000/- plus taxes per month for the period of liquidation for the Corporate Debtor."

7. The Members of the CoC considered the list of expenses incurred/to be incurred by the Applicant and passed the following resolution by 100% voting share:

"RESOLVED THAT, the approval of the CoC be and is hereby accorded to the cost of Liquidation of Rs. 20, 20,000 (Rupees Twenty Lacs Twenty Thousand Only) which is calculated for period of 12 months."

"RESOLVED FURTHER that part of the CIRP cost and liquidation cost will be met from the realisation proceeds of the assets of the Corporate Debtor."

8. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the IBC, 2016, before the expiry of the Corporate Insolvency Resolution Process, the Corporate Debtor viz., O-Zone Networks (P) Ltd has to be ordered for Liquidation.

ORDER

9. In view of the facts and circumstances recorded by Resolution Professional in IA- 17 / (ND)/2021 filed in IB-1445(ND)/2019 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the IBC, 2016, this Authority proceeds to pass Liquidation Order as follows:-


- I. This Authority hereby orders for liquidation of the Corporate Debtor viz., O-Zone Networks (P) Ltd., which shall be conducted in the manner as laid down in Chapter III of part II of the IBC, 2016;
- II. This Authority hereby appoints Mr. Shyam Arora as Liquidator as has been proposed by the CoC, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;
- III. The moratorium declared under Section 14 of the IBC, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the IBC, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- VI. This Order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- VII. All the powers of the Board of Directors, Key Managerial Personnel, and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator viz., Mr. Shyam Arora. In addition to this, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the IBC, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.


VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. The Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings decided by the COC, failing which, in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

10. In terms of the above, IA- 17 / (ND)/2021 filed in IB-1445(ND)/2019 by the Applicant under Section 33(1) of the IBC, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., O-Zone Networks (P) Ltd is **allowed**.

11. The Order is pronounced through video conferencing


NARENDRA KUMAR SHARMA
Member (Technical)


CH. MOHD SHANEE KHAN
Member (Judicial)