



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI COURT – VI

ITEM NO. 1

IA: 3583/ND/2023

IN CP (IB) 2115/ND/2019

IN THE MATTER OF:

CS Vekas Kumar Garg V/s. Mr. Praveen Bansal

Order under Section U/s 60(5) of IBC, 2016.

Order delivered on 01.08.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS,

HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR,

HON'BLE MEMBER (TECHNICAL)

ORDER

Order pronounced in open Court vide separate sheets.

IA 3583/ND/2023 stands dismissed.

SD/-

(Rahul Bhatnagar)

Member Technical

SD/-

(Bachu Venkat Balaram Das)

Member Judicial



THE NATIONAL COMPANY LAW TRIBUNAL

COURT VI, NEW DELHI

I.A. 3583/ND/2023

IN

Company Petition No. (IB) – 2115/(ND)/2019

*Under Section 60(5) of the Insolvency and Bankruptcy
Code, 2016.*

IN THE MATTER OF:

DMI FINANCE PVT. LTD.

.... FINANCIAL CREDITOR

VERSUS

M/S ABLOOM INFOTECH PVT. LTD.

..... CORPORATE DEBTOR

AND IN THE MATTER OF:

MR. VEKAS KUMAR GARG

RP OF NINEX DEVELOPERS LIMITED

.... APPLICANT

VERSUS

RP MR. PARVEEN BANSAL

RP OF M/S ABLOOM INFOTECH PVT. LTD



...RESPONDENT

CORAM:

**SHRI. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER
(JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER
(TECHNICAL)**

For the Applicant: Mr. Rakesh Kumar, Mr. Preeti Kashyap, Mr.
Ankit Sharma and Mr. Harsh Vardhan Gupta,
Advs

ORDER

PER- BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

Order Pronounced on: 01.08.2023

1. This Application has been filed by RP of M/s of M/s Ninex Developers Limited, one of the shareholders of the Corporate Debtor i.e., Abloom Infotech Private Limited under section 60(5) praying for the following reliefs: -

- a) *Pass an order to direct the Respondents to share the copy of resolution plan of the Corporate Debtor*
- b) *Issue other necessary orders in the interest of justice as thought appropriate by Hon'ble Bench.*



2. We have heard the Ld. Counsels for both the parties at length and have gone through the documents on record filed by both the parties.

3. The applicant is praying for the copy of the resolution plan in order to examine its due entitlement of the resolution plan proceeds in accordance with law.

4. There is no express provision in the Code in which shareholder can ask for sharing copy of Resolution Plan. It is

5. The Hon'ble NCLAT Chennai recently in the matter of *Ravi Shankar Vedam vs. Tiffins Barytes Asbestos and Paints Limited and Ors.* (13.06.2023 - NCLAT):

MANU/NL/0581/2023 held that Legislature has curtailed the 'Rights of the Shareholders' based on the established 'Principles of Creditors' in the control framework. The Court provides the 'shareholders' right to file a 'Claim' only in the Liquidation Process as 'stakeholders' and the advances of stakeholders as stated in Regulation 2(k) includes shareholders only because unlike 'CIRP', in Liquidation, distribution to stakeholders is in accordance with the



waterfall mechanism. The relevant paras are reproduced as under:

*18. At the outset, this Tribunal is of the earnest view that the question whether a shareholder of the Corporate Debtor has locus standi, to challenge the Resolution Plan, is to be adjudicated. In an Insolvency process, when an insolvency of Debtor is imminent, the fiduciary duty of the Directors and Managers, who are Agents of the Shareholders, shifts to the Creditors to preserve the value of the Enterprise for maximising the returns for Creditors. **The Legislature in its wisdom, has curtailed the 'Rights of the Shareholders' based on the established 'Principles of Creditors' in the control framework. The Court provides the 'shareholders' right to file a 'Claim' only in the Liquidation Process as 'stakeholders' and the advances of stakeholders as stated in Regulation 2(k) includes shareholders only because unlike 'CIRP', in Liquidation, distribution to stakeholders is in accordance with the waterfall mechanism. Shareholders are excluded from representation, participation or voting in the CoC and are represented in the CoC only through the Directors and can speak only through the Directors.***

6. There is no express provision in the Code that allows shareholders to request a copy of the Resolution Plan. The shareholders have a say at the time of liquidation of the



Corporate Debtor but not in the CIR process. The order in Resolution Plan has already been reserved, and once it is pronounced, it will become a public document, and the shareholders may apply for a Certified Copy of the Order.

7. In terms of the above, I.A. 3583/2023 stands dismissed

Let a copy of order be served to parties.

SD/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)