

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1



ITEM No.1
IA/185(MP)2023
in
(MP) CP(IB) 21 of 2019

Proceedings under Section 60(5) of IBC, 2016

IN THE MATTER OF:

Samyak International Ltd
V/s

.....Applicant

Teena Saraswat Pandey, Liquidator of M/s Digital Micron
Roto Print Pvt Ltd

.....Respondent

Order delivered on 30/11/2023

Coram:

P. Mohan Raj, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

IA/185(MP)2023

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

-SD-

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

P. MOHAN RAJ
MEMBER (JUDICIAL)

A. Bhadauria

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA/185(MP)2023
in
[CP(IB)21/MP/2019]

IA/185(MP)2023

(An application under Sec. 60(5) of IBC, 2016 r.w. Rule 11 of the NCLT Rules, 2016)

Samayak International Limited

CIN: L67120MH1994PLC225907
Office: 85, Manglam Apartment, 5-B,
Old Palasia, Indore, M.P.

.....Applicant

Versus

Ms. Teena Saraswat Pandey Liquidator of

M/s Digital Micron Roto Print Private Limited,
office: 387F, 114 Scheme
Part-1, Behind Diksha Boys Hostel,
Sant Nagar, Indore, Madhya Pradesh – 452010

.....Respondent No. 1

In the main matter of:

[CP(IB)21/MP/2019]

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016)

M/s Radha Krishna Acua Private Limited

Office: C-59 Industrial Area, Mathura,
Uttar Pradesh, UP – 281001

..... Operational Creditor

Versus

M/s Digital Micron Roto Print Private Limited,

CIN NO: U00202MP2005PTC018001

Office: 102, Shri Krishnas Times Square,
Scheme No. 47, Sneh Nagar Main Road,
Indore, MP-452001

..... Corporate Debtor

Order Pronounced On: 30.11.2023

Coram: P. Mohan Raj, Hon'ble Member (J)

Kaushalendra Kumar Singh, Hon'ble Member (T)



Appearance:

For the Applicant : Ld. Adv. Mr. Rohit Dubey,
Ld. Adv. Mr. Sandeep Pandey (physical)
For the Liquidator : Ld. Ms. Teena Saraswat Pandey (online)
For the Respondent: Ld. Adv. Mr. Madhav Lahoti (physical)

ORDER

1. The present application has been filed by the Applicant/Successful Bidder, namely, **Samayak International Limited** under Section 60(5) of IBC, 2016 r.w. Rule 11 of the NCLT Rules, 2016 seeking certain reliefs and concessions following the liquidation of the Corporate Debtor namely **M/s Digital Micron Roto Print Private Limited**.

2. The facts of the case, as emerges out from the application, is that the Corporate Debtor was admitted into the “CIRP” vide Adjudicating Authority’s Order dated 11.01.2021 in CP (IB) 21 of 2019 in the matter of Section 9 application filed by the Operational Creditor M/s Radha Krishna Acua Private Limited. Following the initiation of Corporate Insolvency Resolution Process (“CIRP”), the liquidation order was passed vide Adjudicating Authority’s Order dated 25.08.2022. Ms. Teena Saraswat Pandey, the respondent herein was appointed as the Liquidator. In the liquidation process, the Corporate Debtor has been sold through e-Auction as a going concern and the applicant herein i.e. Samayak International Limited has been declared as Successful Bidder as per the letter of intent dated 18.03.2023 issued by the Liquidator. The total bid consideration amounted at Rs. 3,08,03,000/- Plus GST, Tax, applicable if any. The liquidator has also issued Sale Certificate on 13.06.2023 on payment of the entire consideration.

3. Following the issuance of Sale Certificate, the applicant has filed this present application seeking certain reliefs and concessions saying that they are utmost necessary on acquisition of the Corporate Debtor as a going concern.



4. We have heard the learned counsel for the applicant and perused the reliefs and concessions being sought by the applicant in this application at Annexure A/6. These relates to settlement and extinguishment of liabilities pursuant to the distributions of sale consideration following the liquidation under the IBC and relying on procedural requirement under various laws etc. Following the hearing on 31.08.2023, the applicant has reduced the reliefs and concessions so sought for by filing an Additional Affidavit dated 31.08.2023. These are reproduced here as under:-

Reliefs and Concessions sought as per Affidavit dated 31.08.2023: -

- (1) *All the existing shares of the Corporate Debtor shall be cancelled without any consideration, and rights and liabilities arising out of the same shall also be extinguished. Corporate Debtor shall not be required to obtain any further approvals from the respective authorities and shareholders for compliance to provisions under Companies Act in respect of any action including reduction of Existing Equity Share Capital, issue of Fresh Equity Share Capital and/or for consolidation of face value of reduced share capital (if required) under the offer/proposal, in respect of the cancellation of share, capital reduction of the existing share holder and issuance and allotment of fresh equity share capital in name of the applicant for the purpose of instant going concern takeover.*
- (2) *The transfer of ownership of the Corporate Debtor shall take place by way of writing off the entire existing shareholding of Corporate Debtor and issuance of fresh equity shares to the Applicant. 10000 equity shares of INR 10/- each shall be freshly issued and allotted to the Applicant by the Corporate Debtor.*



- (3). *From the Date of Acquisition, the Board of Directors of the Corporate Debtor be re-constituted as per the Companies Act, 2013 and that the following individuals be permitted to act as Directors of the Corporate Debtor duly appointed under the provisions of the Companies Act, 2013, and the Registrar of Companies shall do all such acts, deeds and things that are necessary to appoint the following individuals as directors of the Corporate Debtor, who are individuals recommended by the Applicant (and who are not debarred by any law in force), in order to enable the corporate debtor to file relevant returns required by applicable law:*

Name of Proposed Director	DIN
Sunita Jain	06924372
Neha Jain	07493030

- (4) *All known or unknown, claimed or unclaimed crystallized or uncrystallized, disputed or undisputed, disclosed or undisclosed liabilities including contingent liabilities obligations (including under any guarantee) including prior claims of all creditors whether financial creditor, workers, employees, governmental departments and statutory authorities shall be settled/extinguished as full and final, pursuant to distributions by the liquidator in terms of Section 53 of the IBC. Neither the acquirer and nor the corporate debtor (other than the promoter/directors/ex-directors) shall be subject to payment of any amount to any person in respect of debts/obligations for acts/omissions for the period prior to the Liquidator Commencement Date.*



- (5) *All inquiries, investigations, assessments, notices causes of action, suits claims, disputes, litigations, arbitration, or other judicial, regulatory or administrative proceedings against, or in relation to or in connection with the Corporate Debtor or the affairs of the Corporate Debtor (other than against the erstwhile promoters or former members of the management of the Corporate Debtor), pending or threatened, present or future, in relation to any period prior to the Date of Acquisition or arising on account of the Acquisition shall be deemed to be settled, withdrawn or dismissed.*
- (6) *Upon distributions under Section 53 of the IBC, the security interest created by the Corporate Debtor over its assets shall automatically stand satisfied and the concerned creditors shall provide the no objection certificate for satisfaction of charge created over the assets of the Corporate Debtor on the MCA Portal.*
- (7) *On and from the Date of Acquisition, the status of the Corporate Debtor in the records of the Registrar of Companies should be reflected as 'active' from the status of 'liquidation'.*
- (8) *The sale of the Corporate Debtor as a going concern shall result in the transfer of the assets (whether known or unknown, inventory, receivables, Land and Building, cash & bank balance etc; whether freehold, leasehold, rented, leased or license basis and intangible assets including technical knowhow, licenses, patents, copyrights, logo, knowledge, brand, trade secrets, rights under a franchise agreement etc., if any) of the Corporate Debtor, including all contracts, licenses, consents, approvals, rights, entitlements, concessions, benefits and privileges under any law, etc.*



5. After consideration of the matter, we allow the reliefs and concessions to the extent as stated here as under:-

- (i) Existing equity shares of Corporate Debtor shall be cancelled without any consideration. The transfer of ownership of Corporate Debtor shall take place on issuance of afresh equity shares to the applicant. The required formalities in the RoC office will have to be carried out by the liquidator/applicant by filing requisite form. The RoC shall consider the same keeping in view the intent and spirit of the IBC.
- (ii) From the date of the acquisition, the Board of Directors of the Corporate Debtor shall be reconstituted. The applicant/liquidator shall file the relevant documents/returns in this regard as per the applicable law in the office of RoC who shall take steps to appoint the new Directors as recommend by the applicant to act as a Director of the Corporate Debtor.
- (iii) All unpaid liabilities and the claims which are not filed with the liquidator shall get extinguished in entirety. The inquiries, investigations relating to the period prior to the date of acquisition against the Corporate Debtor shall be deemed to be withdrawn or dismissed.
- (iv) Upon distribution under Section 53 of the IBC, the security interest created by the Corporate Debtor, if any, over its assets shall stands satisfied and the concern creditors shall provide the NOC for satisfaction of the charge created over the assets of the Corporate Debtor on the MCA Portal.



- (v) On and from the date of the acquisition, the status of the Corporate Debtor in the records of the RoC should be reflected as 'active'.
- (vi) It is also clarified that the extinguished liabilities in respect of the existing equity shares and/or unpaid claims would get converted to either capital reserve, general reserve or would get credited to profit and loss account of in accordance with the provisions of the Income Tax Act. As far as other reliefs and concessions as sought by the applicant, we direct them to approach the concern statutory authorities for the concessions and those authorities will consider the same in accordance with the relevant provisions of law keeping in view the intent and sprit of the IBC.

6. Accordingly, **IA/185(MP)2023**, stands **allowed** to that extent and **disposed of**.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Narendra S. Tomar/ Stenographer

-SD-

P. MOHAN RAJ
MEMBER (JUDICIAL)