THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH: C-IV

IA-106(MB-IV)/2024

Under Section 33 of Insolvency & Bankruptcy Code, 2016.

Mr. Kailash T Shah

…Resolution Professional/ Applicant

In the matter of

C.P.(IB)/4082(MB-IV)2018

Digizone Technology Private Limited
...Operational Creditor

Vs.

Sumtech Infosystem Private Limited

...Corporate Debtor

Order pronounced on: **17.12.2024**

Coram:

Ms. Anu Jagmohan Singh Hon'ble Member (Technical)	Shri Kishore Vemulappalli Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP/Liquidator	:	Adv. Tanmey Kelkar i/b Adv. Aniruth Purusothaman for the Applicant/Resolution Professional present.

ORDER

1. This is an application filed by **Mr. Kailash T Shah**, Resolution Professional of the Corporate Debtor seeking liquidation of **Sumtech Infosystem Private Limited** under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the "Code").

2. **Brief facts of the Application are as follows:**

   2.1. This Tribunal vide an order dated 07.02.2024, in Company Petition bearing C.P.(IB)/4082(MB)2018 filed under Section 9 of the Code, by **Digizone Technology Private Limited** (hereinafter referred to as the "**Operational Creditor**"), admitted the Company Petition and Corporate Insolvency Resolution Process ("**CIRP**") was initiated against **Sumtech Infosystem Private Limited** (hereinafter called as the "**Corporate Debtor**") and appointed **Mr. Surendranath Karat Thazhethethil** as Interim Resolution Professional.

   2.2. Pursuant to the above said Order, the IRP issued a Public Announcement on 09.02.2024, in FORM-A, thereby calling upon the Creditors of the Corporate Debtor to file their claims, along with proof on or before 21.02.2024.

   2.3. The Applicant submits that in the 1st CoC meeting was held on 07.03.2024, wherein sole member of CoC passed a Resolution, approving appointment of the Applicant as the Resolution Professional.

The Adjudicating Authority passed an order dated 28.03.2024 appointing Mr. Kailash T. Shah as the Resolution Professional.

2.4. The Applicant submits that the 2nd CoC meeting was convened by the Applicant on 23.04.2024 in which Applicant apprised CoC members about the Regulation 27 of the CIRP Regulations and resolution for appointment of registered valuer was kept for voting wherein member of the CoC approved the resolution for appointment of registered valuer with 100% votes.

2.5. The Applicant submits that the Applicant issued Form-G Invitation for Expression of Interest dated 13.06.2024 (Under Regulation 36A(1) of the Insolvency and Bankruptcy Board of India, Regulation, 2016) in the matter of the Corporate Debtor.

2.6. The Applicant submits that he received thirteen inquiries regarding the Expression of Interest (EOI) from various Prospective Resolution Applicants. After verifying, the Applicant qualified one Prospective Resolution Applicant. However, this qualified applicant withdrew their EOI.

2.7. Applicant submits that CoC in its 5th meeting dated 26.07.2024 passed a resolution for Liquidation of the Corporate Debtor and appointment of Liquidator in this matter. The relevant extract of the Resolution is reproduced below;-

"RESOLVED THAT the approval of committee of creditors be and is hereby accorded, pursuant to Section 33(2) of the Code, to initiate the

liquidation of the corporate debtor M/s SUMTECH INFOSYSTEM PRIVATE LIMITED."

"RESOLVED FURTHER THAT pursuant to provisions of Section 34 of Insolvency and bankruptcy code, 2016 Mr. Pawankumar Jagetia having registration no. IBBI/IPA001/IP-P00800/2017-2018/11366. Insolvency Professional, be and is hereby appointed as Liquidator of the Corporate debtor by the member of the CoC."

3. The Applicant submits that he has complied with Regulations 39B, 39BA, 39C, & 39D of the CIRP Regulations for the Corporate Debtor. Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.

4. In that view of the matter, having considered the submissions and on perusal of averments made in the present Interlocutory Application; this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority has left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor. Hence ordered.

ORDER

a) The Present Application viz. IA/106/2024 in Company Petition no. 4082(MB)/2018 stands **allowed**. The Corporate Debtor i.e. **Sumtech**

Infosystem Private Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code.

b) We hereby appoint **Mr. Pawankumar Jagetia**, having Registration No. *IBBI/IPA001/IP-P00800/2017-2018/11366*; as the Liquidator to conduct liquidation process of "**Sumtech Infosystem Private Limited**" as provided under Section 34(4) of the Code.

c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.

e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.

f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case, he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.

g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

i) The Liquidator shall exercise the powers and perform duties as envisaged under *Sections 35 to 50 and 52 to 54* of the Code read with the Liquidation Process Regulations.

j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.

k) 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.

l) The Liquidator shall submit Progress Reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.

m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.

n) Registry shall furnish a copy of this Order to:

i. Insolvency and Bankruptcy Board of India, New Delhi;

ii. Regional Director (Western Region), Ministry of Corporate Affairs;

iii. Registrar of Companies & Official Liquidator, Maharashtra;

iv. Registered Office of the Corporate Debtor; and

v. Liquidator, Mr. Mahesh Goverdhan Bagla.

5. With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 106 of 2024 IN C.P.(IB)/4082(MB)2018, stands disposed of as **Allowed**. There would however be no order as to costs. Ordered Accordingly.

Sd/-
ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

Sd/-
KISHORE VEMULAPPALLI
MEMBER (JUDICIAL)