

**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE BENCH**  
**COURT NO. 1**

ITEM No.1  
**IA/107(MP)2021**  
in  
**CP(IB) 13 of 2019**

**Proceedings under Section 33 IBC**

**IN THE MATTER OF:**

Amresh Shukla RP of Shantan Innovations Pvt Ltd  
V/s  
Dhani Loans & Services Ltd & Ors

.....Applicant

.....Respondents

**Order delivered on 09/02/2024**

**Coram:**

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

**PRESENT:**

For the Applicant :  
For the Respondents :

**ORDER**

**IA/107(MP)2021**

This case is fixed for pronouncement of the order.

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

Sd/-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

A. Bhadauria

Sd/-

**P. MOHAN RAJ**  
**MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY**  
**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE BENCH**

**IA/107/MP/2021**

**In**

**CP(IB)/13/2019**

*(An application under section 33(1), 33(2) and 34(1) of the Insolvency and  
Bankruptcy Code, 2016)*

**In the matter of:**

**Mr. Amresh Shukla**

Resolution Professional of:  
M/s Shantan Innovations Private Limited  
F-05, Jaideep Complex,  
112, Zone-II, M.P. Nagar,  
Bhopal,  
Madhya Pradesh- 462001

**.....Applicant/Resolution Professional**

**Versus**

**Dhani Loans and Services Limited**

Financial Creditor  
Having registered office at:  
M-62 & M-63,  
Connaught Place,  
Gurugram- 122056

**.....Respondent No. 1**

**M/s Connect to Create**

Operational Creditor  
Through its Proprietor  
Bharat Vyas  
Having office at:  
Ijmima Road, Malad,  
Mumbai- 400064

**.....Respondent No. 2**

**Meena Sharma**

Suspended Management  
Residing at:  
Plot No. 25, 52,  
Hector New GIDC, Umargam  
Valsad- 396171

**.....Respondent No. 3**

**Tansukh Rai Sharma**

Suspended Management  
Residing at:

Plot No. 25, 52,  
Hector New GIDC, Umargam  
Valsad- 396171

.....Respondent No. 4

**In the main matter of: CP(IB)/13/2019**

*(An application under section 9 of the Insolvency and Bankruptcy Code, 2016)*

**Mr. Bharat Vyas**

Proprietor of M/s Connect to Create

.....Petitioner/Operational Creditor

**Versus**

**M/s Shantan Innovations Private Limited**

.....Corporate Debtor

**Order pronounced on: 09.02.2024**

**Coram: P. Mohan Raj, Member (J)**

**Kaushalendra Kumar Singh, Member (T)**

**Appearance:**

For the Applicant: Ld. Adv. Mr. Rohit Dubey

**ORDER**

1. This application has been filed by Mr. Amresh Shukla, Resolution Professional of M/s Shantan Innovations Private Limited (Corporate Debtor), under section 33 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating the liquidation process of the corporate debtor.

2. The submissions made by the applicant in its application are summarized hereunder:

(i) The operational creditor i.e. Mr. Bharat Vyas, Proprietor of M/s Connect to Create, had filed an application under section 9 of the Code seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against the corporate debtor i.e. M/s Shantan Innovations Private Limited, which was admitted by the Adjudicating Authority vide order dated 23.10.2020. Mr. Amresh Shukla, applicant herein was appointed as the Interim Resolution Professional (IRP) of the corporate debtor.

- (ii) The IRP made a public announcement of the CIRP of the corporate debtor on 28.10.2020, for inviting submissions of claims by the creditors. The last date for submission of claims was 09.11.2020. The IRP then constituted the Committee of Creditors (COC) consisting sole member i.e., Dhani Loans and Services Limited.
- (iii) In the 1<sup>st</sup> COC meeting dated 24.11.2020, proposal for appointment of IRP as RP was rejected.
- (iv) The applicant herein received an email dated 03.1.2021 from Respondent No. 3 Ms. Meena Sharma (Suspended Management) that she intends to settle the entire debt of Respondent No. 1 i.e. Dhani Loans and Services Private Limited. Subsequently, on 05.01.2021, Respondent No. 1 (Sole COC member) addressed a letter for withdrawing its claims of Rs 12,03,432/- for limited purpose of CIRP.
- (v) In the second COC meeting only suspended management was present and due to lack of quorum, the meeting was not validly convened.
- (vi) This Adjudicating Authority vide order dated 22.04.2022, directed the RP to reconsider the constitution of COC consisting of operational creditors. Subsequently, the RP reconstituted the COC with operational creditor namely (i) Sales Tax Department of Gujarat, (ii) M/s Connect to Create, and (iii) M/s Hong Kong Konka Limited.
- (vii) In the 3<sup>rd</sup> COC meeting dated 21.09.2022 agenda for ratification of decision for liquidation was placed before the COC, and the resolution for liquidation was approved by the majority in the said meeting. However, this Adjudicating Authority vide order dated 18.11.2022 observed that the resolution for liquidation was not passed properly and directed the RP to call a physical meeting of the COC to pass the required resolution.
- (viii) In compliance of the order dated 18.11.2022, the RP convened the 4<sup>th</sup> COC meeting physically on 30.12.2022, and 31.12.2022,

however, none of the COC members were present and no resolution for liquidation could be passed.

(ix) The COC in its 6<sup>th</sup> meeting dated 28.08.2023, resolved and confirmed their action taken on 3<sup>rd</sup> COC meeting dated 21.09.2022 to liquidate the corporate debtor.

(x) Further, the COC in its 6<sup>th</sup> meeting dated 28.08.2023, in accordance with Regulations 39B, 39BA, 39C, and 39D of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016, passed following resolutions:

(a) *“Resolved that the estimated liquidation cost of Rs 10,91,500/-, excluding liquidators fee is hereby ratified and approved.”* (Regulation 39B)

(b) *“Resolved that the liquidator shall not explore compromise or arrangement as referred to under sub-regulation (1) of regulation 2B of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.”* (Regulation 39BA)

(c) *“Resolved that the liquidator shall not try to sale the corporate debtor, Shantan Innovations Private Limited, as a going concern.”* (Regulation 39C)

(d) *“Resolved that fee of the liquidator shall be decided after calling quotations from the Insolvency Professionals.”* (Regulation 39D)

(xi) The resolution professional also informed the members that there are no liquid assets available with the corporate debtor.

(xii) During the course of hearing, the learned counsel also submitted that the resolution professional is not willing to continue as a liquidator in case the corporate debtor is put into the process of liquidation.

3. We have heard the learned counsel appearing on behalf of the resolution professional, and have perused the relevant material available on record. It is noted that the corporate debtor was admitted into CIRP vide order

dated 23.10.2020. No Form- G was published during the course of CIRP. Sole COC member/Respondent No. 1 i.e. Dhani Loans and Services Private Limited withdrew its claim vide letter dated 05.01.2021. The resolution professional on the direction given by this Adjudicating Authority vide order dated 22.04.2022, reconstituted the COC with operational creditors. In 6<sup>th</sup> meeting dated 28.08.2023, the COC resolved and confirmed their decision taken in the 3<sup>rd</sup> meeting to liquidate the corporate debtor. Further, the COC in accordance with Regulation 39B resolved and approved the liquidation cost of Rs 10,91,500/-, however, no resolution was passed with regards to who will bear the liquidation cost in case of shortfall in meeting the same. The COC further, not to explore for compromise and arrangement, not to try for sale the corporate debtor as a going concern, and that for the liquidator fees decision will be taken after calling quotations from the Insolvency Professional. Furthermore, there are no liquid assets available with the corporate debtor and 330 days of CIRP have already passed. As such the application deserves to be allowed.

4. The applicant herein has not provided its written consent to be appointed as the liquidator of the corporate debtor. However, IBBI in its letter dated 18.07.2023, has recommended that IP other than the IRP/RP may be appointed as liquidator in all the cases where a liquidation order is to be passed henceforth, and the liquidator can be appointed from the panel list of IBBI.

5. The current COC comprises of one government department i.e. the Sales Tax Department of Gujarat, and two operational creditors, M/s Connect to Create and M/s Hong Kong Konka Limited. Only the Sales Tax Department attended COC meetings; the other two operational creditors were not willing to attend. Furthermore, the COC members are unwilling to contribute towards the liquidation cost in case of a shortfall. Under these circumstances, we direct the newly appointed liquidator to recover its fees from the proceeds of the liquidation estate.

6. In view of the facts and circumstances and documents available on record, we pass the following order:

- (i) The corporate debtor M/s Shantan Innovations Private Limited shall be put into liquidation in terms of the provisions of section 33 of the Code r.w. Regulations made thereunder which shall be effective from the date of this order. Accordingly, we allow IA/107/MP/2021.
- (ii) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- (iii) According to section 34(4)(b) of the Code and the letter dated 18.07.2023 of IBBI, we hereby appoint Mr. Rahul Anand, having registration no. IBBI/IPA-003/IP-N000166/2018-2019/11955 as a liquidator of the corporate debtor i.e. M/s Shantan Innovations Private Limited. The liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (iv) All the powers of the Board of Directors, key managerial persons, and the partner of the corporate debtor, as the case may be, hereafter cease to exist. All these power henceforth vest with the liquidator.
- (v) The personnel of the corporate debtor are directed to extend all cooperation to the liquidator as required by him in managing the liquidation process of the corporate debtor.
- (vi) The liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the liquidator from the proceed of the liquidation estate under section 53 of the Code.
- (vii) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the corporate debtor. The liquidator has the liberty to institute a suit and other legal proceedings on behalf of the corporate debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.
- (viii) This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the corporate debtor except

to the extent of the business of the corporate debtor continued during the liquidation process by the liquidator.

(ix) This Adjudicating Authority directs the liquidator to issue a public announcement stating that the corporate debtor is in liquidation. The liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the corporate debtor so that the authorities concerned are informed of the liquidation order timely. The liquidator will also provide a copy of this order to the trade unions/employee associations of the corporate debtor so that the workman/employees could also be informed of this liquidation order through their association.

(x) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the corporate debtor, the resolution professional, and the liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

(xi) The present resolution professional is directed to hand over the relevant documents and control of the corporate debtor to the newly appointed liquidator forthwith.

7. Accordingly, IA/107/MP/2021 in CP(IB)/13/2019 is disposed of.

Sd/-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

Sd/-

**P. MOHAN RAJ**  
**MEMBER (JUDICIAL)**

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