



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) NO.63/ALD/2023

(An application under Section 10 of the Insolvency and bankruptcy Code, 2016, read with Rule 7 of the Insolvency and Bankruptcy Rules, 2016.)

IN THE MATTER OF:

DIGITONE MOBILES PRIVATE LIMITED

B-53, Ground Floor, Sector-63,
Gautam Buddha Nagar, Noida-201301,
Uttar Pradesh, India.

.....CORPORATE DEBTOR/CORPORATE APPLICANT

Order pronounced on: 05th July, 2024

Coram:

Mr. Praveen Gupta	:	Member (Judicial)
Mr. Ashish Verma	:	Member (Technical)

Appearances:

Sh. P. Nagesh Sr. Adv. assisted : For the Corporate Applicant
by Sh. Suhas Puthige, Adv.

ORDER

1. The present Petition has been filed by Digitone Mobiles Private Limited, the Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) read with rule 7 of Insolvency And Bankruptcy (Application to Adjudicating Authority Rules, 2016) for initiation of Corporate Insolvency Resolution Process (CIRP) against itself.



The Application in Form 6, has been filed through its Authorized Representative, Mr. Pradeep Kumar Awasthi, duly authorized vide Board Resolution dated 03.04.2023. A copy of the Board Resolution dated 03.04.2023 is annexed to the Application and marked as Annexure-A6 on Pages 61-63.

2. The Corporate Applicant was incorporated on 16.06.2016 having CIN: U74999DL2016PTC325103 and is situated at B-53, Ground Floor, Sector-63, Gautam Buddha Nagar, Noida –UP-201301. The nominal Share Capital of the Company is Rs. 10,00,000 (Rupees Ten Lakhs) and the Paid Share Capital of the Company is Rs. 2,87,740. The two directors namely, Shri Pradeep Kumar Awasthi and Shri Vineet Saxena manage the affairs of the Company.
3. The Corporate Applicant availed the loan facility from New Idea Investment Pte. Ltd. in the form of “ECB Rupee denominated bonds”. The New Idea Investment Pte. Ltd. hereinafter referred to as “Financial Creditor” vide Bonds Subscription agreement dated 24.01.2017 issued and allotted bonds up to Rs. 1725 lakhs. The Repayment of the loan amount was of 5 years from the date of allotment of respective bonds and with a further extension of the maturity



date was repayable on 31.10.2022. The rate of interest applicable on this loan was 10 % p.a and was renewed to be carried out at the “NIL” rate. A copy of the Bonds Subscription agreement dated 24.01.2017 has been annexed to the Application and marked as Annexure-A9 on Pages 69-71.

4. The Corporate Applicant availed another loan facility from Zmtech Smart Software Pvt. Ltd. in the form of “Unsecured Inter-Corporate Loan”. The Zmtech Smart Software Pvt. Ltd. hereinafter referred as “Financial Creditor” vide Loan agreement dated 01.06.2019 sanctioned term loan of Rs. 59 lakhs. The Repayment of loan amount was for a period of 1 year from the date of receipt of the first installment of loan. The rate of interest was not applicable on this loan. A copy of the Loan agreement dated 01.06.2019 has been annexed to the Application and marked as Annexure-A10 on Pages 79-80.

PARTICULARS OF FINANCIAL CREDITORS ALONG WITH DEBT

S. No.	Name of Financial Creditor(s)	Address of Correspondence of Financial Creditor(s)	Nature of debt	Total Debt Raised (INR)	Total amount in Default (INR)	Date when financial debt was incurred	Date of default
1	New Idea Investment Pte. Ltd.	1, North Bridge Road, #10-05/06, High Street	ECB Rupee denomi	162,007,500	162,007,500	29.03.2017	01.11.2022



		Centre, Singapore- 179094.	nated Bonds				
2	Zmetch Smart Software Pvt. Ltd.	B-53, Sector- 63, Gautam Buddha Nagar, Noida- 201301, Uttar Pradesh, India.	Short term borrowi ngs	5,900,000	36,71,181	15.06.2019	14.06.2020
						02.07.2019	01.07.2020
						24.07.2019	23.07.2020
Total				167,907,500	162,007,500		

PARTICULARS OF OPERATIONAL CREDITORS ALONG WITH DEBT

S. No.	Name of Operational Creditor(s)	Address of Correspondence of Operational Creditor(s)	Nature of debt	Total Debt raised (INR)	Total amount in Default (INR)	Date when operational debt was incurred	Date of default
1	SMARTYLYF Enterprises Pvt Ltd.	1 st Floor, D-60 & D-62 A, Vikas Marg, Laxmi Nagar, Delhi-110092	ECB Charges	16,520	16,520	3/11/2022	31/3/2023
2	Moksh Travels India Pvt. Ltd.	Roots Tower, 107-108, 1 st Floor, Laxmi Nagar, New Delhi, Delhi-110092	Travel	818,242	818,242	31/12/2017	31/12/2017
3	Singh Malik and Associates	Plot No.61, First Floor, Sector 82, JLPL, Mohali, Punjab-140308	Statutory Audit Fees	440,000	440,000	31/3/2020	31/3/2020
4	Praveen Mittal & Co.	#4302, ATS Greens-2, Sector 50 Noida-201301	Misc exp Paid	389,244	389,244	24/2/2022	24/2/2022
5	Nikunj Agarwal & Co.	Nikunj Agarwal & Co. Plot no.57, Basement, Sector 28, DLF Phase-1, Gurgaon-122002	TP Study Fee	135,000	135,000	1/11/2017	7/2/2018
6	Mehak Facility Services Pvt. Ltd.	Sri Krishna Apartment, G-2, Ground Floor, 7/9, Kishan Garh, Nr. Gaushala Vasant Kunj, New Delhi, Delhi-110070	Hounsekeeping Salary	71,850	71,850	1/12/2017	26/12/2017



7	AAR ESS Consultants	304-305, Chankya Complex, Block H, Guru Nanak Pura, Laxmi Nagar, New Delhi, Delhi-110092	PF Consultant	50,249	50,249	5/1/2017	30/9/2017
8	Sangeet Kumar & Associates	Sangeet Kumar & Associates Chartered Accountants SCO-59, Level-II, Sector-32 C, Chandigarh-160030	ECB-2 Certification	50,000	50,000	30/11/2021	31/3/2023
Total				1,971,105	1,971,105		
Statutory Creditors							
9	PF Payable	A 2C, Tulsi Marg, Sector 24, Noida, Uttar Pradesh 201301	PF	54,254	54,254	28/02/2018	28/02/2018
10	TDS Payable Professional old	Reliance Energy, Block A, Tulsi Marg, Sector 24, Noida, Uttar Pradesh 201307	TDS	12,800	12,800	31/03/2018	31/03/2018
Total				67,054	67,054		

5. However, due to the unprecedented economic scenario during COVID Period and thereafter, the net worth of the Corporate Applicant was completely eroded resulting in a substantial downfall with no visibility of revival.
6. The corporate applicant was running into huge losses with total accumulated losses as on 25.08.2023 standing at Rs. 35.59 crores and the assets of the Corporate Applicant were depleting due to which the Corporate Applicant was unable to discharge its liabilities towards its creditors.



7. Accordingly, on failure to repay the loan amount, the members of the corporate applicant passed a special resolution in its Extra Ordinary General meeting held on 28.04.2023 and resolved to initiate the corporate insolvency proceedings u/s 10 of the I & B Act, 2016 against the default committed by itself. A copy of the Special Resolution passed in its Extra Ordinary General meeting held on 28.04.2023 has been annexed to the Application and marked as Annexure-A7 on Pages 64-67.
8. The notices were issued to the creditors by the Applicant in compliance with the order dated 31.10.2023 and an affidavit of service was also filed. Further, this Tribunal vide an order dated 16.01.2024 directed that despite providing ample opportunities to file a reply in the matter by this tribunal vide order dated 31.10.2023 and 07.12.2023, the Financial Creditors have neither filed any reply nor have appeared in the matter. Therefore, the right of the Financial Creditors to file the reply was struck off.
9. After hearing the Learned Counsel on behalf of the Corporate Applicant and examining the application in terms of provision of section 10. The Corporate Applicant has furnished the



books of accounts for the relevant period under Section 10(3)(a); the Corporate Applicant has proposed the name of the IRP who has submitted its written consent Under Section 10(3)(b); the Corporate Applicant has also filed the Special Resolution passed by shareholders in Extraordinary General meeting dated 28.04.2023 under Section 10(3)(c).

- 10.** The application is free from defects and complete in all aspects as required under the law. The Application shows that the Corporate Debtor is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present Application. The Law Research Associate of this Tribunal, Ms. Kriti Kaushal, has checked the credentials of Mr. Ankush Munjal, and there is nothing adverse heard against him. Upon verification from the website of IBBI, it is found that IP holds valid authorization till 16.10.2024. In view of the above, we appoint Mr. Ankush Munjal, Registration No. IBBI/IPA-001/IP-P01129/2018-2019/11825, R/o B-5/128, Paschim Vihar, 1st Floor, National Capital Territory of Delhi, 110063, Email:



ankushmunjal@yahoo.com , as the Interim Resolution Professional.

11. Therefore, in the light of the facts stated in the application and the evidence placed on record, this Adjudicating Authority admits this Application and orders initiation of CIRP against the Corporate Debtor under the following terms:

- a) The Application bearing C.P.(IB)No. 63/ALD/2023 filed by the Corporate Applicant under section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of M/s Digitone Mobiles Private Limited (CIN: U74999DL2016PTC325103)*
- b) There shall be a moratorium under section 14 of the IBC.*
- c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.*
- d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*
- e) As per the proposal given by the Corporate Applicant, Mr. Ankush Munjal, (Regn No. IBBI/IPA-001/IP-*



P01129/2018-2019/11825) is appointed as the IRP for ascertaining the particulars of Creditors and convening a Committee of Creditors for evolving a Resolution Plan.

- f) During the CIRP period, the management of the Corporate Person shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Person shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.*
- g) The IRP/RP shall submit to this Adjudicating Authority periodical progress reports on a quarterly basis with regard to the progress of the CIRP in respect of the Corporate Debtor.*
- h) The Corporate Applicant to pay to IRP a sum of Rs. 1,00,000 /- (Rupees One Lakh only) to meet the initial costs, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.*
- i) The Interim Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.*
- j) The Registry of this Court is hereby directed to communicate this Order to the Corporate Person and the*



IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

k) Additionally, the Corporate Person shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kanpur by all available means for updating the Master Data of the Corporate Person. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

- 12.** CP (IB) No. 63/ALD/2023 to come up on 06.08.2024 for filing the first progress report.
- 13.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-Sd-

**(Ashish Verma)
Member (Technical)**

-Sd-

**(Praveen Gupta)
Member (Judicial)**

Date- 05th July, 2024