**THE NATIONAL COMPANY LAW TRIBUNAL**
**MUMBAI BENCH-I**

**IA 1686 OF 2024**

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

**MR. BHASKAR GOPAL SHETTY**
(Liquidator)

...**Applicant**

V/s

**DCB BANK & ORS.**

…**Respondent**

In the matter of
COMPANY PETITION (IB) NO. 1817(MB)/2019

R AMAN ENTERPRISES

**…Petitioner**

V/s

MEDIAMAN INFOTECH PRIVATE LIMITED

**…Respondent**

***Order delivered on: 07.05.2026***

***Coram:***

**Shri Prabhat Kumar**
Hon'ble Member (Technical)

**Shri Sushil Mahadeorao Kochey**
Hon'ble Member (Judicial)

*Appearances:*

| | | |
|---|---|---|
| For the Applicant | : | Adv. Ashish P. Agarkar |
| For the Respondent No.1 | : | Adv. Ayush Rajani a/w Adv. Mitali Bhatt |
| For the Respondent No.2 | : | CS Nithish Bangera |
| For the Respondent No.3 | : | Adv. Manoj Kumar Mishra |
| For the Respondent No.4 | : | Adv. Avinash R. Khanolkar |

## ORDER

1. This Application IA 1686 of 2024 was filed on 1.4.2024 by Mr. Bhaskar Gopal Shetty ("Applicant/Liquidator"), the Liquidator of Mediaman Infotech Private Limited ("Corporate Debtor") in the liquidation process under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 ("Code") **amended as per the order dated 15.12.2025 In IA/5752(MB)2025**, seeking following reliefs:-

    1. *To direct the DCB Bank to release Saving bank account Fund amounting Rs.1,59,724.61 to liquidator immediately;*

    2. *To Direct DCB bank to pay Pending CIRP Cost Rs. 40,57,569/= and Liquidation Cost Rs. 18,32,334/-. DCB bank is the only Financial Institution in the COC, Hence are liable to Pay 100% towards CIRP and Liquidation Cost. [Regulation 2A of Liquidation Process Regulations, 2016];*

    2A. *To direct the Respondent No. 4 to pay INR 3,00,000/- lakhs along with interests if any applicable to the Applicant which was ordered to be paid as per para 35 of the admission order*

*dated 18.11.2022 passed in the matter to erstwhile RP;*

3. *To Direct DCB Bank to cooperate with the Liquidator*

4. *Any other order as deemed fit by the Honourable Bench.*

2. The Applicant is a Liquidator of the Corporate Debtor having address at C- 77, Shanti Shopping Centre , Mira Road East, Maharashtra - 401107.

3. The corporate debtor was admitted into Corporate Insolvency Resolution Process ("CIRP") vide the Order dated 18.11.2022 of this Adjudicating Authority, appointing Mr. Satish Anand Sharma as the Interim Resolution Professional, who was subsequently, confirmed as the Resolution Professional of the Corporate Debtor vide the Order dated 13.01.2023

4. Thereafter, this Tribunal, noticing that the CIRP period has expired and there is no resolution plan for resolution of corporate debtor, an order dated 10-11-2023 was passed in IA (IBC) 988 of 2023 for liquidation of corporate debtor. The said order was uploaded on the NCLT portal on same date, however, is stated to be received by the Liquidator on 24-11-2023. Public Announcement in Form-B was made in the Business Standard (English Newspaper) and Navashakti (Marathi Newspaper) in their Mumbai Edition dated 28-11-2023. The CIRP records were handed over to the applicant herein by the erstwhile resolution professional on 29.12.2023.

5. The Liquidator is stated to have opened a bank Account opened with Axis Bank A/c No. 923020070046920, IFSC Code: UTIB0000064 dated 29-11-2023 to carry out liquidation process.

6. DCB bank, the Respondent No. 1 herein and sole CoC member in CIRP process, filed its claim for Rs. 98,76,118 in the CIRP Process, however, they have not filed any claim in the liquidation Process and do not want to be the part of Liquidation Process. It is alleged by the applicant liquidator that they are not at all cooperating.

7. Respondent No. 2, Mr. Dushyant Dolatrai Mehta, is suspended board member; Respondent No. 3, Mr. Satish Sharma, is erstwhile resolution professional; and Respondent No. 4, M/s R. Aman Enterprises, is the person, who had filed an application u/s 9 of IBC initiating the CIRP process in this matter.

8. It is alleged by the applicant that an amount of Rs. 1,59,724.61 was transferred illegally from Current Account to Loan Account by DCB Bank. It is noted that the said amount was lying in the current account of corporate debtor maintained with DCB Bank as on 16.1.2023, and DCB Bank had a lien over the balances in this account to the extent of Rs. 9,99,99,999/-.

9. It is further stated by the applicant that the Respondent No. 4 was ordered to pay INR 3,00,000/-cost to the erstwhile RP when the Corporate Debtor was admitted under CIRP while till date the Respondent No. 4 has failed to do so. Further, there is no evidence of the payment made to the erstwhile RP nor any steps

taken by the erstwhile RP to recover the CIRP costs from the Respondent No. 4 and the same remains outstanding till date.

10. It is further stated by the applicant that, as on date of filing of present application, there was outstanding CIRP costs amounting to Rs. 40,57,569/-, and Liquidation costs amounting to Rs. 18,32,334/-.

11. Respondent No. 1 DCB Bank filed its reply stating that this application is filed with the malicious intent of unlawfully recovering the entire CIRP and Liquidation Cost from Respondent No. 1, a financial bank, despite Respondent Bank being part of Corporate Insolvency Resolution Process only until the 3rd Committee of Creditors meeting held on 25 February 2023, and thereafter, decided to remain outside the CIRP and the same was communicated to the Erstwhile RP (Respondent No.3) vide letter dated 9 May 2023. It is further stated that Respondent Bank never filed its claim with the Liquidator during the liquidation process, despite this, the Applicant/Liquidator is attempting to unlawfully recover not only the entire CIRP costs but also Liquidator costs from the Respondent Bank, even though, Respondent Bank had never filed a claim with the Liquidator nor was it part of the liquidation process. It is further submitted that the Applicant/Liquidator still wrongly treated the Respondent Bank as a stakeholder and assigned it 100% voting percentage as it had in the Erstwhile CoC as can be seen at para 4 of the said SCC minutes held on 8 December 2023, inspite of recording that Respondent Bank has decided to remain outside the liquidation process by not filing any claims.

12. Respondent No. 4, the original petitioner/operational creditor, filed its reply stating that the said payment of Rs. 3.00 lakhs was ordered to be against the initial cost of the CIRP and the same was to repaid back to the R4, to the extent ratified by the CoC, in terms of Reg. 33 of the CIRP Regulations, and it cannot be assumed that the ordered payment was Ordered to fund the CIRP by this Bench. It is further stated that the R4 co-operated with the R3 in entire CIRP and now also co-operating in full with the Applicant in the Liquidation Process, as on date, the R4 has made total payment of Rs. 21.70 Lakhs towards the Liquidation Cost of the Corporate Debtor. Accordingly, it is further submitted that though due to inadvertent error the initial payment of 3 Lakhs, as ordered, was not made by the R4; presently the R4 has paid much higher amount towards the Liquidation Cost for the Liquidation Process.

13. Respondent No. 3, the erstwhile resolution professional, filed his reply stating that, as on date, "not a single penny" has been received towards his fees or towards CIRP Cost. It is further stated by R-3 that even Operational Creditor has paid entire liquidation cost to the extent of Rs. 21.70 Lacs during the liquidation process, however CIRP cost has not been paid even a single paisa and Resolution Professional has deliberately not been paid even any ratified fees or expenses.

14. Respondent no. 2, the suspended board member has filed the reply stating that it is inconceivable, by any stretch of imagination, for a suspended director to be responsible for paying the fees of the Resolution Professional or the Liquidator.

15. Heard the Counsel and perused the material on record.

16. At the outset, since a sum of Rs. 1,59,724.61/- was lying to the credit of the corporate debtor in the account maintain with DCB Bank, Respondent No. 1, as on date of commencement of CIRP in the case of the corporate debtor and the said balance was not appropriated towards the outstanding loan prior to commencement of CIRP in terms of the lien held by DCB Bank, we consider it appropriate to direct the DCB Bank to release Saving bank account Fund amounting Rs.1,59,724.61 to liquidator immediately.

17. Undisputedly, the Respondent No. 4 has contributed Rs. 21.70 Lacs during liquidation process; the corporate debtor does not have any asset or business to resolve and liquidate in the present matter; Respondent No. 1 DCB Bank has not filed any claim in the liquidation process and had communicated to the liquidator in specific terms that they would not be participating in the liquidation process; the liquidator constituted as SCC comprising of Respondent No. 1 as the member having 100% voting share because Respondent No. 1's was CoC member having 100% voting share in CIRP; and the CIRP cost amounting to Rs. 40,57,569/- and liquidation cost amounting to Rs.18,32,334/- is still pending for payments. It is not clear as to how the amount of Rs. 21.70 lacs paid by Respondent No. 4, which appears to have been paid to the Applicant herein in his personal account, has been appropriated by the Applicant and as to why the applicant herein received this contribution from Respondent No. 4 in his personal account.

18. Since, Respondent No. 4 has already paid a sum of Rs. 21.70 Lacs in the liquidation process of the corporate debtor, we do not

find any merit in the prayer of the Applicant for direction to the Respondent No. 4 to pay INR 3,00,000/- lakhs along with interests if any applicable to the Applicant which was ordered to be paid as per para 35 of the admission order dated 18.11.2022 passed in the matter to erstwhile RP, because the said amount of Rs. 3 lacs was order to be paid to fund the initial CIRP process as an interim finance arrangement to take the CIRP process forward till the constitution of CoC. Further, such direction, though liable for contempt in case of disobedience, could not be constituted as casting and continuing obligation on the Applicant operation creditor after constitution of CoC, if the sufficient fund are available to fund the process, which in the present case were made available by the Respondent No. 4 in liquidation process far beyond Rs. 3,00,000/-.

19. It is further noted that an order dated 10-11-2023 was passed for liquidation of corporate debtor in IA (IBC) 988 of 2023, which was filed by the Erstwhile Resolution Professional seeking extension of 90 days in CIRP period beyond 180 days expiring on 16.05.2023, after observing that no resolution plan was received for resolution of the corporate debtor even after expiry of further 90 days sought as extension in the application.

20. Accordingly, there was no occasion to place necessary resolutions pursuant to Regulation 39B (in relation to meeting of liquidation cost) and 39D (in relation to fees of the liquidator) of CIRP Regulation before CoC for their approval. However, this Tribunal at Para 5 of the order dated 10.11.2023 stated that "*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.*"

21. Regulation 4 of the Liquidation Process Regulation provides for the manner in which the liquidator fees shall be decided and it reads as follows:-

> "*4. (1) The fee payable to the liquidator shall be in accordance with the decision taken by the committee of creditors under regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*
>
> *(1A) Where no fee has been fixed under sub-regulation (1), the consultation committee may fix the fee of the liquidator in its first meeting.]*
>
> *(2) In cases other than those covered under sub-regulation (1) 3[and (1A)], the liquidator shall be entitled to a fee-*
>
> *(a) at the same rate as the resolution professional was entitled to during the corporate insolvency resolution process, for the period of compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013); and*
>
> *(b) as a percentage of the amount realised4 net of other liquidation costs, and of the amount distributed, for the balance period of liquidation, as under:*
>
> *……."*

22. As noted above, the fees of the liquidator was not decided by the CoC under Regulation 39D of the CIRP Regulations. It is further noted that the SCC member having 100% voting rights was absent in the first SCC meeting and thereafter as well in view of express communication from Mr. Pranjil Agrawal, the representative of Respondent No. 1, to the liquidator that they do not want be the part of Liquidation Process and they are not going to file any claim in the Liquidation Process, and that DCB Bank should be kept out of Liquidation Process. Accordingly, it can be said that the liquidation fess was also not approved in terms of Regulation 4(1A) of the Liquidation Process Regulation. Hence, the liquidator is entitled to fees in terms of Regulation 4(2) only, which provides the payment of remuneration as a percentage of the amounts realized net of liquidation cost and distributed. In the present case it is evident that no such amount has so far been realized by the liquidator thereby disentitling him from making any claim for the fees.

23. It is noted that the liquidator has claimed following liquidation cost due and payable :

a. Liquidation expenses amounting to Rs. 36,254/- for the period from 24-11-2023 to 04-12-2023;

b. Liquidation expenses amounting to Rs. 5,82,080/- (including Liquidator Fees from 24-11-2023 TO 14-03-2024-Four Months amounting to Rs. 4,72,000/-) for the period from 05-12-2023 to 14-03-2024;

c. Liquidation expenses amounting to Rs. 12,14,000/- (including Liquidator Fees for 8 Months amounting to Rs. 9,44,000/-) for the period from 15-03-2024 to 23-11-2024.

24. Accordingly, out of total amount of Rs. 18,32,334/- claimed as outstanding, a sum of Rs. 14,16,000/- relates to the liquidator remuneration, which is not payable as explained above, accordingly, the amount of Rs. 4,16,334/-, claimed to have been spent by the liquidator in the liquidation process so far, can only be allowed to be paid subject to verification thereof by the original petitioner.

25. As regard CIRP cost it is noted that the Resolution Professional has claimed a monthly fees @ 2,00,000/- per month. The Schedule II of CIRP Regulation provides for minimum payment of fees of Rs. 1,00,000/- to the Resolution Professional in case claims of the creditor are less than and equal to Rs. 50 crores. Further, Regulation 34B of the CIRP Regulation provides that "

> ***34B.*** *(1) The fee of interim resolution professional or resolution professional, under regulation 33 and 34, shall be decided by the applicant or committee in accordance with this regulation.*
>
> *(2) The fee of the interim resolution professional or the resolution professional, appointed on or after 1st October 2022, shall not be less than the fee specified in clause 1 for the period specified in clause 2 of Schedule-II:*
>
> *Provided that the applicant or the committee may decide to fix higher amount of fee for the reasons to be recorded, taking into consideration market factors such as size and scale of*

*business operations of corporate debtor, business sector in which corporate debtor operates, level of operating economic activity of corporate debtor and complexity related to process.*

*(3) After the expiry of period mentioned in clause 2 of Schedule-II, the fee of the interim resolution professional or resolution professional shall be as decided by the applicant or committee, as the case may be.*

26. It is noted that the admitted claim of Rs. 101.24 lakhs were only in the CIRP of the corporate debtor, there were only three claimants, there was no business activity carried by the corporate debtor. Further, no reason are recorded for fixing higher amount of fee, accordingly, we feel that the approval of Respondent No. 1 in this respect was mechanical only de-hors consideration market factors such as size and scale of business operations of corporate debtor, business sector in which corporate debtor operates, level of operating economic activity of corporate debtor and complexity related to process. Indubitably, the Insolvency Resolution Professional is also obligated to require payment of monthly remuneration after taken into consideration the market factors such as size and scale of business operations of corporate debtor, business sector in which corporate debtor operates, level of operating economic activity of corporate debtor and complexity related to process, which in the present case does not appear to have been taken into account by the Resolution Professional as well.

27. It is noted that, out of Rs. 40,57,569/- stated as pending CIRP cost, a sum of Rs. 28,50,954/- pertains to the monthly

remuneration of Resolution Professional and a sum of Rs. 9,85,300/- pertains to cost of legal fees. As noted above that the approval of the CoC, if any, in relation to Resolution Professional fees was mechanical without due consideration of provision of Regulation 34B of CIRP Regulation read with Schedule II thereof, in our considered view, the fees payable to the Resolution Professional cannot exceed Rs. 1,00,000/- per month. It is further noted that, no expression of interest was received in the CIRP of the corporate debtor in the first round and Resolution Professional was fully aware about the facts in relation to the business and the assets of the corporate debtor along with their fair value and liquidation value, the proposal of the Resolution Professional in the third CoC meetings for fresh publication of Form G and further extension of CIRP beyond 180 days was nothing but an attempt to keep the CIRP process going so as to have an assignment in hand. Accordingly, we feel the Resolution Professional should not be entitled to a fees for a period beyond 180 days of CIRP. Hence, the amount of fees payable to the Resolution Professional @ 1,00,000/- per month for a period of 180 days together with GST @ 18% thereon comes to Rs. 7,08,000/-. Accordingly, the total CIRP cost payable comes to Rs. 19,14,615/-.

28. Since, no resolution was passed in terms of Regulation 34B of the CIRP Regulation and the sole CoC member, DCB Bank, had withdrawn from the liquidation process since inception, we feel that no direction can be issued to the Respondent No. 1 or Respondent No. 4 to contribute any further.

29. In terms of the above, the liquidator is directed to settle the CIRP cost as well as liquidation cost out of the funds available with him within 30 days.

30. Accordingly IA 1686 of 2024 is disposed of.

**-Sd/-**
**Prabhat Kumar**
Member (Technical)

**-Sd/-**
**Sushil Mahadeorao Kochey**
Member (Judicial)