

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

IA No.175/2017 IN
CP (IB) No.06/BB/17

UNDER SUB-CLAUSE (c) OF SUB-SECTION 5
OF SECTION 60 OF THE (I&B) CODE, 2016

IN THE MATTER OF SUBODHA ENTERTAINMENTS CO.
AND
IN THE MATTER OF JACKONBLOCK FACILITY SERVICES PRIVATE LIMITED

Order delivered on: 18th December, 2017

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

For the Interlocutory Applicant Shri Thirupal Gorige, IRP.

BETWEEN :

M/s. Subodha Entertainments Co.,
SLV Residency (SH), Gobbala Main Road,
Subramanyapura Post, Uttarahalli,
Bangalore – 560 061.

AND

M/s. Jackonblock Facility Services Private Limited,
Site No.22, Katha No.25, 3rd Floor,
Above Dena Bank, Sharada Nagar, Vasanthapura Main Road,
Uttarahalli Hobli, Bangalore – 560 061.

ORDER

Per : Hon'ble Shri Ratakonda Murali, Member (Judicial):

Heard on 05.06.2017, 13.06.2017, 27.06.2017, 03.07.2017, 10.07.2017, 21.07.2017,
16.08.2017, 30.08.2017, 25.09.2017, 11.10.2017, 23.10.2017, 16.11.2017, 28.11.2017,
06.12.2017, and 11.12.2017.

This application is filed by Shri Thirupal Gorige, the Insolvency Resolution Professional, under Sub-section (5) of Section 60 and Section 33 of the Insolvency and Bankruptcy Code, 2016 for passing of several resolutions and also for initiation of process of Liquidation.



The IRP, in the application has averred that the application for Corporate Insolvency Resolution Process (CIRP) filed by M/s. Subodha Entertainments Co., the Operational Creditor under Section 9 of the I&B Code 2016 read with Rule 6 of the I&B (Application to Adjudicating Authority) Rules, 2016 was admitted by this Tribunal on 17th April, 2017 and appointing the applicant as Interim Resolution Professional, to perform the role of IRP in accordance with the relevant provisions of the Code.

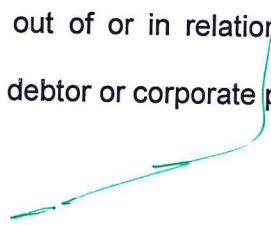

It is averred in the application that due to lack of quorum at first meeting of committee of creditors convened by IRP, e-voting facility was provided to all members of COC. However, no creditor had exercised this option. Accordingly, the resolution *inter-alia* for appointment of Resolution Professional (RP) placed before the meeting of COC was not passed on 24th May, 2017. A memo dated 08.06.2017, to this effect was filed before the Tribunal for information.

Thereafter, as per the directions of this Tribunal, the Interim Resolution Professional called the 2nd meeting of COC on 20th August, 2017, seeking approval of creditors for resolution placed before the 1st meeting of COC.

It is averred that due to lack of quorum in the 2nd meeting of COC as well, e-voting facility was also provided to all members of COC. Only one financial creditor, Canara Bank (having 10.90% voting power) had exercised the e-voting facility and voted *inter-alia* in favour of the resolution appointing IRP as RP. The other two financial creditors in the COC holding 89.10% of voting power did not exercise their right. A memo dated 30.08.2017 to the same effect was filed before the Tribunal for the *information* of the Tribunal.

The time-limit for completion of insolvency resolution process under Section 12 of the Code in the present case started on 17th April, 2017 and has ended on 13th October, 2017.

It is averred that provisions of sub-clause (c) of sub-section (5) of Section 60 of the Code, this Tribunal only has the jurisdiction to entertain any matter in connection with any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person.



Accordingly, it is averred that the IRP has filed the present application praying this Tribunal for the following reliefs:

- a) To confirm the resolution passed by the Committee of Creditors appointing the Interim Resolution Professional as Resolution Professional at the 2nd meeting of COC;
- b) To extend the time of corporate insolvency resolution process under Section 12 of the code, Regulation 40 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, beyond 180 days to till the date of liquidation order is passed;
- c) To order the initiation of liquidation proceedings under Section 33 of the Code as Committee of Creditors have failed to take any decision within the time frame given under the code; and
- d) To pass such other orders that this Tribunal deems fit, in the circumstances of the case, in the interest of justice and equity.

We have seen the averments made in the application and also perused the relevant Rules and Regulations of the I&B Code.

Sub-section (5) of Section 60 and sub-clause (c) thereto of I&B Code, 2016 reads as under:

“Adjudicating Authority for corporate persons:

(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of :-

(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.

The IRP requested the Tribunal to pass an order to confirm the IRP as RP and also to extend the period of Insolvency Resolution Process beyond 180 days till the date of passing of order of liquidation.

According to the IRP, in the 2nd COC meeting which was held on 19.08.2017, one of the financial creditors attended the meeting besides others. Again, it was adjourned to 20.08.2017 due to lack of quorum. In the adjourned meeting of 2nd COC, e-voting was also arranged on CDSL platform in which only one financial creditor exercised the facility voting in favour of confirming the IRP as RP. Other financial creditors did not attend the COC meeting. Since the financial creditor who exercised e-voting facility voted in favour of confirming the IRP

as RP, therefore, the Tribunal has to take into consideration the said fact and the IRP is to be confirmed as RP.

It is clear from the report that no resolution plan has so far been given to the RP by any financial creditor or any other person till date. The Insolvency Resolution Process is therefore, to be extended beyond 180 days so as to enable the RP to complete the process of obtaining resolution plan or in the alternative, to report to the Tribunal the decision of the COC if any, as to the future course of action. For the said reason, the resolution process period is to be extended beyond 180 days by another period of 90 days which would expire by 13.01.2018. In the meanwhile, the RP is directed to take steps either to file the resolution plan or convey the decision of the COC for passing any liquidation order.

Therefore, the application is allowed to the extent of confirming the appointment of IRP as RP and also further extending the period of resolution process by another 90 days with effect from 14.10.2017. The RP is further directed to file resolution plan if any, or inform the decision of the Committee of Creditors if any, regarding liquidation.

The time of corporate insolvency resolution process under Section 12 of the code, Regulation 40 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, is extended for a period of 90 days beyond 180 days, i.e., up-to 13th January, 2018, with effect from 14th October, 2017. Order of liquidation will be passed after getting full details from the RP.



(ASHOK KUMAR MISHRA)
MEMBER (TECHNICAL)



(RATAKONDA MURALI)
MEMBER (JUDICIAL)

psp.