

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA/319/IB/2020 & IA/320/IB/2020 in
CP/1055/IB/2018 filed under Sections
33 (2) and Section 60 (5) of the
Insolvency and Bankruptcy Code,
2016

In the matter of M/s. Scope Properties Private Limited

Mr. Suresh Kannan N
Resolution Professional
M/s. Scope Properties Private Limited
4th Floor, 4/1, Krishna Reddy Colony,
Dolmur Layout, Bangalore-560071.

---Applicant/Resolution Professional

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)


For Applicant : *Shri. Anant Merathia, Advocate*
Ms. T. Poornima Devi, Advocate

COMMON ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 27.01.2021

IA/319/IB/2020 has been filed u/s 33(4) of the Insolvency &
Bankruptcy Code, 2016 ("the Code") by the Resolution Professional



(in Short "RP") seeking for liquidation of the Corporate Debtor namely M/s. Scope Properties Private Limited.

2. IA/320/IB/2020 has been filed u/s 60(5) of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Resolution Professional (in Short "RP") seeking to condone the unintentional and unavoidable delay of 82 days in filling the Liquidation Application by the applicant.

3. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated on 27.03.2019 in CP/1055/IB/2018 and Mr. Pankaj Srivastava was appointed as IRP. The IRP caused public announcement calling for the claims from the Creditors of the Corporate Debtor vide publication dated 29th March, 2019. Thereafter, the IRP constituted the Committee of Creditors on 17.04.2019. The 1st meeting of the CoC was conducted on 26.04.2019.

4. Meantime, the erstwhile management of the Corporate Debtor filed an appeal before the Hon'ble NCLAT vide an appeal bearing No. Company Appeal (AT) (Insolvency) 395 of 2019, however the CIRP proceedings continued as there was no direction from the

Hon'ble NCLAT ordering for the stay of the Order passed by this Tribunal dated 27.03.2019. In the course of time, the 2nd COC meeting was held on 27.05.2019 and the COC passed a resolution to appoint the applicant as Resolution Professional of the Corporate Debtor. Thereafter, the RP appointed two IBBI Registered Valuers on 22nd May, 2019 and 24th May, 2019 for valuation of the assets of the Corporate Debtor and the average values of the assets as per two valuation reports are as under:

S. No	Particulars	Valuation Amount
1	Fair Value	Rs.20,00,00,000/-
2	Liquidation Value	Rs.14,00,00,000/-

4. It is further submitted that the Applicant/RP filed an application before this Adjudicating Authority against the erstwhile management and the promoters of the Corporate Debtor for non-cooperation. The non-cooperation application was heard and this Tribunal passed an order on 04.10.2019. It is further submitted that in the 4th COC meeting held on 18.09.2019, a resolution was passed to seek extension of period for CIRP for a further period of 45 days



of the CIRP. Thereafter, the RP filed an application before this bench vide MA/1033/2019 seeking an extension of the CIRP period for a further period of 45 days from 23.09.2019, which was allowed by this Bench vide order dated 01.10.2019. Hence, the CIRP period was extended from 23.09.2019 to 08.11.2019.

5. It is further submitted that the Applicant/RP had issued multiple Expressions of Interest (EOI) on 02.07.2019, 22.08.2019 and 12.10.2019. Pursuant to this, few prospective resolution applicants had submitted their EOIs before the RP, but the prospective resolution applicants failed to give detailed EOIs to the RP on or before 19.10.2019.

6. Subsequently, in the 5th COC meeting held on 05.11.2019, the COC members had unanimously passed a resolution for Liquidation of the Corporate Debtor. The Members of the COC recommended the applicant to act as liquidator of the Corporate Debtor and the RP expressed his wiliness to act as Liquidator and given his written consent to act as liquidator on 05.11.2019.



7. In relation to IA/320/IB/2020, the applicant/RP submitted that the delay of 82 days in filling the Liquidation Application before this Tribunal, is due to fact that the liquidation application was kept in abeyance considering the various settlements talks between the erstwhile management of the Corporate Debtor and the sole financial creditor and subsequent time granted by the Hon'ble Appellate Tribunal for the parties to enter into a settlement vide order dated 05.12.2019. The Hon'ble Appellate Tribunal had subsequently recorded vide Order dated 17.12.2019, that the Adjudicating Authority should not pass any order of liquidation during the pendency of the said appeal. In pursuance of these orders made by the Hon'ble Appellate Tribunal, there was delay in filling the application for Liquidation of the Corporate Debtor the Adjudicating Authority.

8. It is also further submitted that the Hon'ble Appellate Tribunal had vide its order dated 03.01.2020 posted the matter for orders on 09.01.2020. Subsequently, the said proceeding before the Hon'ble Appellate Tribunal was dismissed as withdrawn on

16.01.2020. Meanwhile, the applicant also filed an avoidance application on 29.11.2019 under section 66 of the IBC, 2016 and the same is pending before this Tribunal vide MA/1408/2019 in CP/1055/IB/2018. In these circumstances, we are of view that Application filed for condoning the delay of 82 days in filing of the Liquidation application in IA/320/IB/2020 required to be allow; the same hereby **allowed**.

9. In view of above facts, we are left with no option but to order liquidation of the Corporate Debtor. We hereby order for liquidation of the Corporate Debtor namely **M/s. Scope Properties Private Limited and Mr. Suresh Kannan N** having Reg No. IBBI/IPA-001/IP-F01434/2018-2019/12277 is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date.

- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory



authority which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency

and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

- j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., and company-in-liquidation.

10. Hence, this application IA/319/IB/2020 stands **disposed of** with the aforesaid terms.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

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(R. SUCHARITHA)
MEMBER (JUDICIAL)

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