

3

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**IA/547/CHE/2021 in CP/1011/IB/2018**

*(Filed under Sec. 60(5) of Insolvency and Bankruptcy Code, 2016 read  
with Regulation 44 and 47A of Insolvency and Bankruptcy Board of  
India (Liquidation Process) Regulations, 2016)*

In the matter of **M/s. AKR Holdings Pvt. Ltd.**

N. Kumar  
Liquidator of  
M/s. AKR Holdings Private Limited  
Old No.8, New No.3, Third Street,  
Race View Colony, Guindy,  
Chennai – 600 032

.. .. Applicant / Liquidator

Present:

For Liquidator : S. Sathiyarayanan, Advocate

CORAM :

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

*Order Pronounced on 2<sup>nd</sup> August 2021*

**ORDER**

**Per: ANIL KUMAR B, MEMBER (TECHNICAL)**

1. The IA/547/CHE/2021 has been filed by the Liquidator under Section 60(5) of IBC, 2016 read with Regulation 44 and 47A of Insolvency and Bankruptcy of India (Liquidation Process) Regulations, 2016, seeking relief as follows;

- a. *An Order extending the time for completion of Liquidation by another 1 (one) year or such other period as this Hon'ble Tribunal may deem fit and appropriate; and*
- b. *Pass such further or other orders / reliefs as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.*

2. It is averred in the Application that in an Application filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC, 2016') by an Financial Creditor this Tribunal vide its order dated 15.11.2018 passed in CP/1011/IB/2018 had initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor viz. M/s. AKR Holdings Private Limited and appointed one Mr. Muthuiah Thevar Rajapandian as the "Interim Resolution Professional" (IRP).

3. It is submitted that this Tribunal vide order dated 07.06.2019 in MA/524/2019 has ordered for the Liquidation of the Corporate Debtor and appointed the Applicant herein as the Liquidator in relation to the Corporate Debtor.

4. The Learned Counsel for the Applicant submitted that since the initiation of the CIRP in relation to the Corporate Debtor, there was complete non - cooperation from the promoter / suspended



directors of the Corporate Debtor and they refused to hand over the documents and records of the Corporate Debtor. Further, it was submitted that the Liquidator, after verifying the records and books of the Corporate Debtor identified fraudulent transactions carried out by the erstwhile management of the Corporate Debtor and the same has been numbered as IA/157/2021 and IA/159/2021 and pending adjudication before this Tribunal. It was also submitted by the Learned Counsel for the Applicant that he has also filed an Application IA/73/2021 before this Tribunal seeking suitable directions against the tenants who illegally occupied the immovable property of the Corporate Debtor at Guindy and the same is pending adjudication before this Tribunal.

5. The Learned Counsel for the Liquidator further submitted one of the immovable properties of the Corporate Debtor located at 60 MKN Road, Guindy, Chennai which forms part of the liquidation estate is to be sold, the proceeds of which are to be distributed to the stakeholders; however due to the non co-operation and hostile behaviour of the suspended directors of the Corporate Debtor the Applicant is unable to take possession of the same.



6. Further, it was submitted by the Learned Counsel for the Applicant that due to the prevailing Covid – 19 pandemic and subsequent lock-down imposed by the Government of India and the State Governments, the Liquidator is unable to complete the Liquidation process of the Corporate Debtor within the time limit prescribed under the Code and in terms of Regulation 44 of the IBBI (Liquidation Process) Regulations, 2016 as was in force as on the date of order of liquidation i.e. 07.06.2018, the Liquidation process has to be completed within 2 (two) years from the date of such order and as such the Liquidation period of the Corporate Debtor expired on 06.06.2021.

7. It is to be noted here that the Regulation which was prevalent at the time of passing the Liquidation Order mandates the Liquidation process to be completed within a period of 2 years and as such the liquidation process in relation to the Corporate Debtor is required to be completed on or before 06.06.2021. However, the Liquidator not being in a position to complete the process and under the circumstances, the Liquidator has filed the present Application under Regulation 44(2) of IBBI (Liquidation Process) Regulations, 2016 (*amended upto 15.12.2016*) for continuation of the Liquidation period of the Corporate Debtor for a further period



of one year from 26.02.2021. In this context, it is relevant to refer to Regulation 44 of IBBI (Liquidation Process) Regulations, 2016 (amended upto 15.12.2016)

#### **44. Completion of liquidation.**

(1) The liquidator shall liquidate the corporate debtor within a period of two years.

(2) If the liquidator fails to liquidate the corporate debtor within two years, he shall make an application to the Adjudicating Authority to continue such liquidation, along with a report explaining why the liquidation has not been completed and specifying the additional time that shall be required for liquidation.

8. Regulation 44(2) of IBBI (Liquidation Process) Regulations, 2016, which was amended upto 15.12.2016, is taken into consideration for the facts of the present case and it contemplates that if the liquidator has failed to liquidate the Corporate Debtor within two years then he has to make an application to the Adjudicating Authority to continue such liquidation, along with a report explaining why the liquidation has not been completed specifying the additional time that shall be required for completion of the liquidation.

9. The Applicant in the Application has averred that the avoidance applications filed by Liquidator is yet to be adjudicated



by this Tribunal and till such time the avoidance application is adjudicated, the Liquidation process in relation to the Corporate Debtor cannot be completed. Further, the assets which are forming part of the Liquidation estate are yet to be sold and hence there arises a necessity to continue with the Liquidation process of the Corporate Debtor. However, this Tribunal feels that extension of the Liquidation period can be granted only for a period of six months and not one year as sought for in the relief portion.

10. Thus, by taking into consideration all the facts mentioned above, this Authority feels that it is just and proper to extend the Liquidation period for a further period of 6 (six) months and as such the Liquidation period of the Corporate Debtor is extended for a period of **6 (six)** month from the date of this Order and the Liquidation process in relation to the Corporate Debtor is required to be completed on or before **02.02.2022**. Further, the Liquidator shall make every endeavour to complete the liquidation process within the extended period and not to seek for any further extension. The Liquidator in view of the extension granted as above, is directed to abide by the model timelines as prescribed by IBBI in Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and thereby complete the process in all



earnest and in accordance with the said Regulations including filing of reports as required, with this Tribunal.

11. With the above said directions, IA/547/CHE/2021 stands **allowed.**

-sd-  
**(ANIL KUMAR B)**  
MEMBER (TECHNICAL)

-sd-  
**(R. SUCHARITHA)**  
MEMBER (JUDICIAL)

*Raymond*