

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
SPECIAL BENCH – II, CHENNAI**

**IA/321(CHE)/2020, IA/656(CHE)/2022 &  
IA/800(CHE)/2022  
IN  
IBA/685/2019**

In the matter of *Jeppiaar Cements Private Limited*

**UMESH GARG**

Resolution Professional of  
Jeppiaar Cements Private Limited

*... Applicant /Resolution Professional*

Order Pronounced on *26* August, 2022 ✓

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR, PRESIDENT  
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant: Ramaswamy Meyyappan, *Advocate*  
(IA/321/IB/2020 & IA(IBC)/656(CHE)/2022)

Mukesh Kumar Suman, *Advocate*  
(IA/800(CHE)/2022)

**ORDER**

***Per: JUSTICE RAMALINGAM SUDHAKAR, PRESIDENT***

The applications for consideration are two extension/exclusion applications and a liquidation application filed by the learned Resolution Professional of Jeppiaar Cements Private Limited (hereinafter referred to as the 'Corporate Debtor'). The extension application preferred under Section 12(2) of the

Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') seeking relief as follows:

- a. That this Hon'ble Tribunal may be pleased to grant an extension of the CIRP Period by an additional Ninety (90) days;
- b. That this Hon'ble Tribunal may be pleased to pass such other order and further reliefs as the nature and circumstances of the case may require and thus render justice.

2. The exclusion application preferred under Section 60(5) of the Code seeking relief as follows:

- (i) Allow this Application.
- (ii) Grant exclusion of 737 days (exclusion of 71 days from 25<sup>th</sup> March, 2020 on account of nationwide lockdown due to COVID 19 pandemic and exclusion of 666 days from 4<sup>th</sup> June, 2020 to 31<sup>st</sup> March, 2022 on account of stay imposed by the Hon'ble NCLAT vide its order dated 04.06.2020) from the Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor,
- (iii) Pass such other further order/order(s) as may be deemed fit and proper in the facts and circumstances of the case.

3. The liquidation application preferred under Section 33(1)(a) of the Code seeking relief as follows:

- (i) Allow this Application.
- (ii) Pass an order for liquidation of the Corporate Debtor i.e. Jeppiaar Cements Private Limited as no resolution plan has been received by the Resolution Professional

during CIRP and CIRP period of 330 days after considering 737 days of exclusion (on account of COVID 71 days and in account of litigation 666 days) and 90 days of extension already stands expired on 13<sup>th</sup> July, 2022 (through order on exclusions and extension is yet to be passed).

- (iii) Appoint Sh. Umesh Garg having IBBI Reg. No. IBBI/IPA-001/IP-P00135/2017-18/10277 as Liquidator of the Corporate Debtor i.e. Jeppiaar Cements Pvt. Ltd.
- (iv) Pass an order that the order of Liquidation is a notice of discharge to employees, workmen etc.
- (v) Pass an order I terms of provision of Section 33(5) that subject to section 52, no suit or other legal proceeding shall be instituted by or against the corporate debtor, through a suit or other legal proceeding may be instituted by the liquidator on behalf of the corporate debtor with the prior approval of the Hon'ble Adjudicating Authority.
- (vi) Pass an order in terms of provisions of Section 34(2) that all powers of the board of directors, key managerial personnel shall cease to have effect and shall be vested in the liquidator.
- (vii) Pass an order in terms of provisions of Section 34(2) that all the personnel of the corporate debtor shall extend assistance and cooperation to the liquidator as may be required by him in managing the affairs of the corporate debtor.
- (viii) Pass Order(s) / direction(s) as the Hon'ble Tribunal may deem fit and proper in interest of justice.

4. In the Section 7 application filed by the Financial Creditor (Indian Bank) against the Corporate Debtor, this Tribunal vide order dated 26.09.2019 initiated the Corporate Insolvency

Resolution Process (CIRP) in relation to the Corporate Debtor and appointed the Applicant herein as Interim Resolution Professional (IRP).

5. It is averred in the application that pursuant to the Applicant being appointed as IRP, he caused Public Notice in Form - A and invited claims in accordance with the provisions of IBC, 2016. Thereafter, it is submitted that the IRP has constituted the Committee of Creditors (CoC) consisting of the sole Financial Creditor. In the 1<sup>st</sup> Meeting of the CoC held on 11.11.2019, the Applicant had been appointed as the Resolution Professional.

6. Thereafter, it is submitted that the 2<sup>nd</sup> CoC Meeting held on 18.11.2019 had concluded the eligibility criteria and resolved to proceed with the publication of Form - G, that is, the invitation of EoI by prospective Resolution Applicants. As there were no EoI received pursuant to the first publication of Form - G on 24.10.2019, the CoC in the interest of preserving and maximizing the assets of the Corporate Debtor, had resolved to extend the last date of submission of EoI from time to time and further reduced the EMD from 25 lakh to 5 lakh. As seen from the final 'Addendum' to Form - G dated 27.02.2022, the date for submission of EoI had been extended to 29.03.2020. Finally, the Applicant states there were 3 EoI in total by Ankur Biochem Limited, CFM Asset Reconstruction Private Limited and Ramco Cements Limited.

7. It is averred by the Applicant that on an appeal against the order initiating the CIRP against the Corporate Debtor, the Hon'ble Appellate Tribunal in *Company Appeal (AT) (Insolvency) No. 503 of 2020* vide order dated 04.06.2020 had ordered status quo and directed not proceed further with the CIR Process. On account of said intervention, it is submitted that Ankur Biochem Limited, and Ramco Cements Limited had decided not to proceed further with any Resolution Plan. Thereafter, vide order dated 31.03.2022, the Hon'ble Appellate Tribunal had vacated the said order and dismissed the Appeal.

8. Further, on resumption of the CIR Process, as a result of the 8<sup>th</sup> CoC Meeting held on 05.04.2022, a final 'Addendum' was published and thereby extending the last date for submission of EoI to be 14.04.2022. It is at this time the extension and exclusion applications for consideration were preferred before this Tribunal.

9. It can be seen that from the final provisional list issued by the Applicant in accordance with Regulation 36A (12) of the IBBI (CIRP) Regulations, 2016, there were four EoI submitted to the Applicant. However, it is submitted that none of the EoI applicants turned up with a Resolution Plan within the prescribed period. Therefore, during the 11<sup>th</sup> CoC held on 13.06.2022, the members had discussed the possibility of another Form - G, but having considered the difficulty with respect to the ownership of the land,

it had resolved to vote on the decision to liquidate the Corporate Debtor.

10. It is submitted that despite sufficient time given for the members to vote on the decision, no voting had taken place within the stipulated time. However, it is also submitted by the Applicant that the sole financial creditor which constitute 96.65% voting share vide email dated 14.07.2022 had communicated the Resolution Professional to proceed in accordance with law. The applicant specifically submits that no resolution plan had been received during the subsistence of the CIRP and that no resolution plan exists for consideration before the CoC. For this reason, it is the view of the applicant that there is no possibility of resolution and revival of the Corporate Debtor.

11. Heard the submissions of the Learned Liquidator. The timeline of CIRP as per the applicant is as under:

<b>S. No.</b>	<b>Description of Activity</b>	<b>Date</b>
1.	Commencement of CIRP	10 <sup>th</sup> October, 2019
2.	180 days getting completed on	7 <sup>th</sup> April, 2020
3.	Last Date of CIRP after Exclusion of 737 days	14 <sup>th</sup> April, 2022
4.	Last Date of CIRP after 90 days of Extension	13 <sup>th</sup> July, 2022

12. It can be seen that as per the above table, the learned Resolution Professional has duly preferred extension/exclusion applications as and when necessary. Thus, the extension and


exclusion applications (**IA/321/IB/2020** & **IA(IBC)/656(CHE)/2022**) are **allowed**.

13. It can be seen that the liquidation application has been preferred owing to the fact that CIRP period in relation to the CD has expired without any plan being approved. Thus, we have no alternative but to liquidate the CD. It is also seen from the records that the applicant herein has accorded his written consent to act as the Liquidator of the Corporate Debtor. In these circumstances, the applicant, **Umesh Garg, having reg. No. IBBI/IPA-001/IP-P00135/2017-2018/10277**, is hereby appointed as the Liquidator of the Corporate Debtor to carryout 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 Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 as amended from time to time.
- b) The Liquidator shall endeavour to explore the viability of selling the Corporate Debtor as a going concern in term of Regulation 32A of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- c) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the

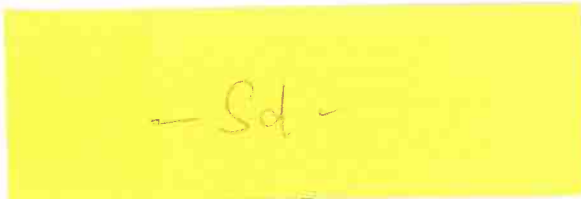
Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

- d) 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.
- e) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- f) 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 authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- g) 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.
- h) 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.

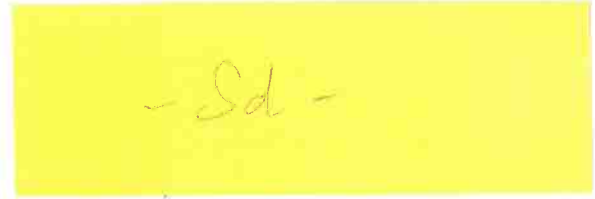


- i) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- j) 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.
- k) Copy of this order be sent to the Financial creditor, 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., company-in-liquidation.

13. Consequently, **IA/800(CHE)/2022** stands **disposed of** with the aforesaid terms.



**SAMEER KAKAR**  
MEMBER (TECHNICAL)



**JUSTICE RAMALINGAM SUDHAKAR**  
HON'BLE PRESIDENT

*V.Shreekumar*