



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

IA(IBC)/1067(CHE)/2023 in CP(IB)/61(CHE)/2022
(Filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016)

In the matter of M/s. Gonglu Agro Private Limited

Lalit Kumar Dangi
Resolution Professional of
Gonglu Agro Private Limited

... Applicants

Order Pronounced on 12th September 2023

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : Pawan Jhabakh, Advocate

ORDER

(hearing conducted through VC)

Per: SANJIV JAIN, MEMBER (JUDICIAL)

The present Application has been filed by the Resolution Professional of M/s. Gonglu Agro Private Limited under Section 33(1)(a) of IBC, 2016 seeking Liquidation of the Corporate Debtor.

2. The Corporate Insolvency Resolution Process ("CIRP") in respect of Corporate Debtor was initiated on 30.05.2022 and the applicant herein was appointed as the "Interim Resolution Professional".



3. The 1st CoC meeting was held on 29.06.2022 wherein the Applicant was confirmed to act as the Resolution Professional in respect of the Corporate Debtor. Thereafter, in the 2nd CoC meeting held on 02.08.2022, the eligibility criteria were discussed and approved by the members of the CoC.

4. Form – G was published by the Applicant on 12.08.2022 in “Thinaboomi” (Tamil) & “Business Standard” (English) and “Deshdoot” (Marathi) and “Deshdoot Times” (English). Pursuant to the same, it is stated that the Applicant received Expression of Interest from 11 (Eleven) Prospective Resolution Applicants (PRAs) and received only 1 Resolution Plan from the Consortium of Maa Kudargarhi Steels Private Limited and BM Foods.

5. It is stated that the 180 days CIRP period came to an end on 26.11.2022 and the RP ~~has~~ filed an application for extension of 90 days vide IA(IBC)/1434(CHE)/2022 and this Tribunal vide its order dated 23.11.2022 allowed the said application and as such the 270th day of CIRP was extended till 13.03.2023.



6. It is stated that in the 10th CoC meeting held on 18.01.2023, the CoC members considered the Final Resolution Plan. The Resolution Plan submitted by Consortium of Maa Kudargarhi Steels Private Limited and BM Foods was rejected by the CoC. Thereafter, the CoC in the 11th meeting held on 14.02.2023, decided to issue fresh invitation for Expression of Interest in Form – G. Accordingly, the Applicant again published Form – G inviting Expression of Interest on 21.02.2023 in “Thinaboomi” (Tamil) & “Business Standard” (English) and “Deshdoot” (Marathi) and “Deshdoot Times” (English), with the last date for submission of Expression of Interest on 08.03.2022.

7. In the meantime, since the 270 days CIRP was about to come to an end, the Applicant moved IA(IBC)/463(CHE)/2023 seeking extension of 60 days. Accordingly, this Tribunal vide its order dated 20.04.2023, extended the 330-day CIRP period till 12.05.2023.

8. It is stated that pursuant to second Form – G, the Applicant received Expression of Interest from 4 (four) PRAs and received only one Resolution Plan from Consortium of Maa Kudargarhi Steels Private



Limited and BM Foods, who had submitted the Resolution Plan earlier.

It is stated that the said Resolution Plan was put for vote before the CoC and it garnered only 43.05% of the vote in its favour.

9. Since the 330-day CIRP in respect of the Corporate Debtor came to an end on 12.05.2023, RP has moved the present Application seeking liquidation of the Corporate Debtor.

10. Heard the submissions made by the Learned Counsel for the Applicant.

11. The Corporate Debtor herein is the subsidiary of M/s. Capricorn Food Products India Limited. The Resolution Plan in respect of M/s. Capricorn Food Products India Limited was approved by this Tribunal vide its order dated 12.07.2023 in IA(IBC)/1052(CHE)/2022 and IA(IBC)/1501(CHE)/2022. While approving the Resolution Plan of M/s. Capricorn Food Products India Limited, this Tribunal has observed in para 7 as follows;



7. IA(IBC)/1501(CHE)/2022 – OBJECTION TO THE RESOLUTION PLAN

7.1 IA(IBC)/1501(CHE)/2022 is an Application filed by DBS Bank Limited under section 60(5) of IBC, 2016 seeking relief as follows;

a. That this Hon'ble Tribunal may be pleased to direct the Respondent to exclude the Nashik Land from being dealt with in any manner from the Resolution Plan.

b. Pass such other order or orders as this Hon'ble Tribunal may deem fit.

7.2. It is seen that one of subsidiary of the Corporate Debtor viz. Gonglu Agro Private Limited (GAPL) is also under going Corporate Insolvency Resolution Process. The factory unit of GAPL is situated at Nashik District, Maharashtra. In the said area, the factory unit of GAPL is situated on an area admeasuring 23.19 acres of land belonging to GAPL and some portion of the said factory in constructed on the area belonging to the Corporate Debtor. The demarcation of the total land being 38.18 acres owned by GAPL and the Corporate Debtor is provided as below;

Gonglu Agro Private Ltd.:

Gatta No.	Hectares	Acres
207	1.15	2.84
211	4.94 (4.56 + 0.38) (0.38 Land Portion is in the form of Pot Kharaba)	12.20
213	3.30	8.15
Total	9.39	23.19

Capricorn Food Products India Ltd.:

Gatta No.	Hectares	Acres
211	1.80	4.44
213	4.27 (3.71+0.56) (0.56 Land Portion is in the form of Pot Kharaba)	10.55
Total	6.07	14.99

7.3. Out of the area of land admeasuring 38.18 acres, an area admeasuring 14.99 acres belong to the Corporate Debtor on

S. Venkatesh

[Signature]



which some portion of the factory premises of GAPL is situated and is in its possession. The said factory structure of GAPL was built on the common land on the basis of the mutual understanding of holding and subsidiary company. Further, certain structures forming a part of the factory of GAPL are built on the land of Corporate Debtor which cannot be separately demarcated.

7.4. It was submitted that the valuation of the entire land in the name of the Corporate Debtor has been done by the RP which would ultimately amount to categorization of the said portion of the land as an asset of the Corporate Debtor and it would defeat the sale of GAPL as a going concern, since the unit / structure / building along with plant and machinery built on the said land belongs to GAPL. If the said portion of land belonging to the Corporate Debtor over which the factory of GAPL is situated is taken over by the RP of the Corporate Debtor, then the entire Resolution Process of GAPL shall be affected with meagre chance of successful Resolution as the factory premises is the primary asset of GAPL from where the business is operated and no resolution Applicant may be interest in submitting a Resolution Plan or buying the Company, once the factory of GAPL built on the land of the Corporate Debtor is tampered in any form or manner.

7.5. In respect of the aforesaid issue, the successful Resolution Applicant of the Corporate Debtor has filed an Affidavit dated 08.05.2023 which is as follows

"2. I say and submit that during the pendency of the captioned Application, certain Financial Creditor of subsidiary of the Corporate Debtor I.e. Gonglu Agro Private Limited, had preferred Applications bearing no.IA/1501(CHE)/2022 stating that the approval of the Resolution Plan submitted by the SRA in the case of the Corporate Debtor would impact the smooth functioning of

S. Venkatesh

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Corporate Insolvency Resolution Process of Gonglu Agro Private Limited. The alleged objection is with respect to certain parts of lands belonging to the Corporate Debtor which are being utilized by Gonglu Agro Private Limited for its business purposes. Therefore, approval of the said Resolution Plan would hinder the resolution of Gonglu Agro Private Limited and defeat the purpose of achieving the maximization of value of its assets.

3. I humbly say and submit that the said allegations raised by the Financial Creditors are denied, however, in view of the delay and for the sake of prompt approval of the Resolution Plan, the SRA undertakes the following:

- That the SRA shall relinquish its rights under the Resolution Plan in respect of the lands as described below:

Jaitapur Village, Chandvad Taluk, Nasik District

A dry land to an extent of 15 acres located in the premises of Gonglu Agro Pvt. Ltd. [Gat No. 211 (part), 213 (part)]

Gat No.	Hectares	Acres
211	1.80	4.44
213	4.27 (3.71+0.56) (0.56 Land Portion is in the form of Pot Kharaba)	10.55
Total	6.07	14.99

7.6. Thus, the SRA has relinquished their rights under the Resolution Plan in respect of the land to the extent of 14.99 acres standing in the name of the Corporate Debtor and located in the premises of GAPL.

S. Venkatesh

SRA



7.7. Upon perusal of the valuation Report of the Corporate Debtor, it is seen that for the land to the extent of 14.99 acres situated as Nashik District, the valuation arrived at is Rs.68,76,660/- (Rupees Sixty-Eight Lakhs Seventy-Six thousand six hundred and sixty only). The Successful Resolution Applicant has filed another Affidavit dated 15.06.2023 wherein it has been stated as follows;

“iii. I submit that on the hearing held on 10.05.2023, the counsel appeared for the successful resolution applicant stated that the successful resolution Applicant will pay the entire plan amount as envisaged in 1A/1052/2022 without deducting anything towards 'Nasik Land'. After recording the undertaking given by the counsel for the successful Resolution Applicant this Hon'ble Tribunal was pleased to reserve orders in the application on 10.05.2023. A copy of the order dated 10.05.2023 is submitted herewith as **Annexure - 2**.

iv. I submit that this Hon'ble Tribunal on 13.06.2023 has directed the Applicant to file an Affidavit in this regard. The successful resolution applicant has sent an email confirmation on 14.06.2023 that they will pay the entire resolution plan amount as envisaged in IA/1052/2022 without deducting any amount towards the value of 'Nasik land'. A copy of the said email is submitted herewith as **Annexure-3.**”

7.8. The land belonging to the Corporate Debtor to an extent of 14.99 acres, situated at Nashik District and located inside the premises of GAPL, is as under;

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Jaitapur Village, Chandvad Taluk, Nasik District

A dry land to an extent of 15 acres located in the premises of Gonglu Agro Pvt. Ltd. [Gat No. 211 (part), 213 (part)]

Gat No.	Hectares	Acres
211	1.80	4.44
213	4.27 (3.71+0.56) (0.56 Land Portion is in the form of Pot Kharaba)	10.55
Total	6.07	14.99

7.9. Thus, the aforesaid land premises to an extent of 14.99 acres shall NOT form part of this Resolution Plan. However, the Successful Resolution Applicant shall pay the entire Resolution Plan amount of Rs.79.39 Crores as stated by them in the Affidavit dated 15.06.2023, without making any deductions and without recourse to any further proceeding.

7.10. With the above said directions IA(IBC)/1501(CHE)/2022 stands disposed of.

12. Based upon the orders passed by this Tribunal in M/s. Capricorn Food Products India Limited, when the present Application came up for hearing before this Tribunal on 13.07.2023, following order was passed:

“Applicant is represented by Ld. Counsel Mr. Pawan Jhabakh. Ld. RP Mr. Lalit Kumar Dangi is present in person through video conferencing mode.

The Resolution Plan in respect of the holding Company was approved and the order was pronounced on 12.07.2023. During the

S. Venkatesh

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hearing the RP and the advocate were directed to go through para-7.9 of the order.

RP seeks to hold one more CoC meeting to consider the facts as per the order of 12.07.2023 with respect to the holding Company.

RP seeks liberty to place the order of "Capricorn Foods Products India Ltd" order in the plan and in the light of the said order to reconsider the decision on liquidation. He is permitted to hold a CoC meeting to take an appropriate decision in this regard.

List the matter on 28.07.2023 for hearing"

(emphasis supplied)

13. Thereafter, it is seen that in compliance with the afore-mentioned order, the RP convened the 15th CoC meeting of the Corporate Debtor on 18.07.2023 to decide the future course of action. Accordingly, the CoC members with 98.59% majority have approved for issuance of fresh Form – G to revive the Corporate Debtor. The RP has filed an affidavit dated 26.07.2023, recording the aforesaid facts.

14. In the present case, it is seen that there are much more prospects for the Corporate Debtor to evince a better Resolution Plan, in view of the order passed by this Tribunal in IA(IBC)/1052(CHE)/2022 and IA(IBC)/1501(CHE)/2022. Further, the CoC with 98.59% majority have also approved for issuance of fresh Form – G.



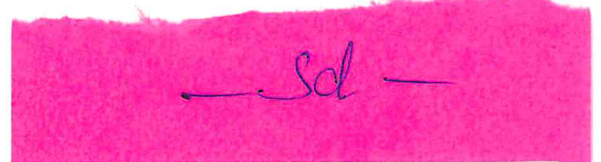
15. Thus, by relying upon the decision of the Hon'ble Supreme Court in the case of **Committee of Creditors of Essar Steels through Authorized Signatory Vs Sathish Kumar Gupta & Others (2020) 8 SCC 531**, we hereby extend the CIRP period in respect of the Corporate Debtor for a period of **60 days** from the date of this order.

16. It is made clear that this extension is granted keeping in view the peculiar facts and circumstances of the present case. The RP is directed to expedite the process and complete the CIRP within the timelines stipulated by this Tribunal.

17. With the above said directions IA(IBC)/1067/CHE/2023 and stands **disposed of**.

 — Sd —

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

 — Sd —

SANJIV JAIN
MEMBER (JUDICIAL)

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