



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

IA(IBC)/1516(CHE)/2023 in IBA/441/2019

(Filed under Sec. 12(2) and 60(5) of the Insolvency & Bankruptcy Code, 2016)

Along with

IA(IBC)/1519(CHE)/2023 in IBA/441/2019

(Filed under Sec. 12(2) and 60(5) of the Insolvency & Bankruptcy Code, 2016)

In the matter of M/s. Premier Futsal Management Private Limited

Ms. Chitra Srinivas
Resolution Professional of
M/s. Premier Futsal Management Private Limited
Asta AVM, Flat B4E
P.V. Rajamannar Salai, K.K. Nagar,
Chennai – 600 078

... Applicant

Present:

For Applicant : V, Mahesh, PCS

CORAM:

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

Order Pronounced on 12th September 2023

ORDER

Per: **SANJIV JAIN, MEMBER (JUDICIAL)**

IA(IBC)/1516/CHE/2023 is an application filed by the Resolution
Professional in respect of Corporate Debtor viz. **Premier Futsal**



Management Private Limited under Section 12(2) of IBC r/w 60(5) of Insolvency and Bankruptcy Code, 2016 seeking reliefs as follows:

- i. *To extend the time limit for completion of Corporate Insolvency Resolution Process of Corporate Debtor by a period of 150 days from 12th April (i.e. date of passing resolution for extension) to 9th September 2023,*
- ii. *Pass such other orders and further orders, as this Hon'ble Tribunal may deem fit and appropriate and thus render justice.*

2. IA(IBC)/1519/CHE/2023 is an application filed by the Resolution Professional in respect of Corporate Debtor viz. **Premier Futsal Management Private Limited** under Section 12(2) of IBC r/w 60(5) of Insolvency and Bankruptcy Code, 2016 seeking reliefs as follows:

- i. *Condone the delay in filing the application for extension of CIRP process by approximately 994 days.*
- ii. *Allow the filing of an application under Sec. 12(2) of the IBC Code, 2016 for extension of CIRP process by a period of 150 days from the date of application.*
- iii. *Pass such other orders and further orders, as this Hon'ble Tribunal may deem fit and appropriate and thus render justice.*

3. The Corporate Insolvency Resolution Process ('CIRP') in respect of Corporate Debtor was initiated on 31.01.2020 and one Mr. Kedarram Ladha was appointed as the "Interim Resolution Professional". Thereafter,



due to Covid – 19 pandemic there was no progress in the CIRP of the Corporate Debtor.

4. The erstwhile IRP filed IA(IBC)/930/CHE/2021 before this Tribunal for replacement of Resolution Professional and accordingly this Tribunal vide its order dated 03.01.2022 appointed the Applicant herein as the 'Resolution Professional' in respect of the Corporate Debtor.

5. It is stated that while the CIRP process was to be completed by 29.07.2020 (i.e. 180 days from its commencement on 31.01.2020), by the time the Applicant stepped in as RP, more than two years had elapsed (not taking into account the time lost due to lockdown) and the affairs of the Corporate Debtor was in shambles, with account of Corporate Debtor being not audited for 4 years, statutory auditors having resigned, no proper records available, etc.

6. It is stated that more than 14 COC meetings were held between 31.01.2020 and 20.11.2021, but no major activity envisaged under the Code was taken up and the IRP was not confirmed as RP, before the appointment of the Applicant on 03.01.2022.

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7. It is stated that the Applicant proactively took several steps to ensure that the CIRP process as contemplated under the Code was taken up, in spite of all the constraints, including financial issues as the Bank account of the CD was freezed. It is stated that, on taking charge as the RP, it was noted that the accounts of the Corporate Debtor have not been audited for the last four years (i.e) from 31.03.2018, and the Statutory Auditor of the Corporate Debtor had expressed their desire not to continue.

8. It is stated that there has been considerable delay in getting the basic information from the management of the Corporate Debtor, which resulted in delay in preparation of Information Memorandum and Expression of Interest and appointment of Valuers. The Valuers were not keen in taking up the assignment without completion of audit of the Books of Accounts of the Corporate Debtor. It is stated that the suspended Board did not have all the necessary information and they in turn had to contact the majority shareholders for the information and then the same was passed on to the Applicant herein. It is stated that the entire control and management of the Corporate Debtor was in the hands of the majority shareholder, viz. Celebrity Football League Private Limited.

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9. It is stated that the COC was not taking any decisions with respect to extension of CIRP process, appointment of Auditors, etc. It is further stated that the Registered Valuers were not interest in taking up the assignment because of non-availability of audited accounts. Further, it is stated that the COC was not interested to spend funds towards audit and valuation, if no Resolution was forthcoming. Without audit, the Information Memorandum could not be prepared nor could the Registered Valuers be appointed.

10. It is stated that in the 17th COC meeting held on 01.07.2022, the RP recommended for liquidation of the Corporate Debtor, since none of the matters contemplated under IBC were completed and no resolution was forthcoming. It is stated that the COC requested time till 11.07.2022 to take a decision with respect to the same.

11. It is stated that in spite of numerous calls, WhatsApp messages, emails, etc., the COC did not respond to the RP for about 6 months. It is stated that the RP could not approach this Tribunal without any Resolution

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passed by the CoC either for extension of CIRP or for Liquidation of the Corporate Debtor.

12. It is stated that the Applicant also expressed her desire to resign since there was a medical emergency in the family with her mother-in-law suffering from brain tumor since September 2022 and was requiring frequent admission to hospitals.

13. It is stated that the COC members finally responded on 16.02.2023 and requested to convene the meeting on 22.02.2023. It is stated that in the said COC meeting, the members of the COC did not take any decision and requested two weeks' time to take a final decision and table the letter of intent from the interested parties.

14. It is stated that the CoC meeting was convened on 12.04.2023 and the COC members resolved that CIRP period be extended by a further period of 150 days and that extension of time be filed before NCLT. It is stated that the Applicant has received a letter of intent from one prospective person, based on which the CoC members decided to file an

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application for extension of CIRP. It is submitted that few other parties from India and abroad have also shown keen interest to submit the Expression of Interest.

15. It is stated that the COC have also approved for appointment of registered valuers in the 21st CoC meeting held on 12.04.2023. It is stated that the Corporate Debtor being in a unique field, it was not possible to even conduct a valuation exercise, in the absence of tangible assets. It is stated that indecisiveness on the part of the COC members, also led to a considerable delay in the CIRP process and making an application for extension of CIRP.

16. Under such circumstances, the present Application has been moved seeking condonation of delay and extension of CIRP period of the Corporate Debtor till 09.09.2023.

17. Heard the submissions made by the Learned Authorized Representative for the Applicant and perused the records.

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18. The CIRP in the present case was initiated as early as on 31.01.2020. The present Applicant was appointed as the Resolution Professional in respect of the Corporate Debtor by this Tribunal vide its order dated 03.01.2022. Even after the appointment of the Applicant as the RP, more than 330 days have lapsed. However, there seems to be no progress in the CIRP of the Corporate Debtor.

19. It is seen that the CoC has been vacillating for a long period of time, in relation to appointment of Registered valuers, preparation of Information memorandum, issuing of Expression of Interest, etc in relation to the CIRP of the Corporate Debtor. In the entire CIRP process, the CoC has remained indolent and has totally violated the mandated timelines prescribed under the provisions of IBC, 2016. In fact, only in the 21st CoC meeting, a Registered Valuer has been appointed. This shows how the RP and the CoC conducted the CIRP process in a lackadaisical manner.

20. We are unable to comprehend as to why the RP has to wait for a decision of the CoC to pass an order for extension of CIRP or for Liquidation of the Corporate Debtor. Sec. 33(1) and (2) of IBC, 2016 is extracted hereunder;

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33. Initiation of liquidation. –

(1) Where the Adjudicating Authority, -

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall -

- (i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;
- (ii) issue a public announcement stating that the corporate debtor is in liquidation; and
- (iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors 1[approved by not less than sixty-six per cent. of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.

(emphasis supplied)

21. An application seeking liquidation of the Corporate Debtor can be filed under Section 33(2) of IBC, 2016, if the CoC passes a Resolution to that effect. However, as per Section 33(1) of IBC, 2016, once the 330 days' time



period is over, the RP can immediately file an Application seeking liquidation of the Corporate Debtor. In the present case, the RP has not done so, however seeks to justify on the ground that COC has not passed any Resolution to liquidate the Corporate Debtor.

22. Also, it is quite surprising to note that the CoC has waited for the interested parties to first approach them and then go ahead with the publication of Form – G, which process itself goes well against the basic object of IBC, 2016. This lethargic attitude in conducting the CIRP process both by the RP and the COC is viewed seriously by this Tribunal.

23. Be that as it may, as to the factual aspect of the case, it is seen that the RP has issued Form – G in 'Business Standard' and 'The Hindu' on 06.05.2023 and the last date was fixed as 31.05.2023. In response to the same, three Expression of Interest were received, out of which two were incomplete. It is also seen that as per the decision of the CoC, another Form – G was issued on 22.06.2023 in Business Standard and Makkal Kural and the last date was fixed as 21.07.2023. In response to the same, three



Prospective Resolution Applicants evinced interest and the Applicant finalized the Final list of prospective Resolution Applicant.

24. The Applicant has annexed the list of three prospective Resolution Applicant who are eligible to submit the Resolution Plan by way of a memo dated 23.08.2023. It is also seen that the last date to submit the Resolution Plan by the said Prospective Resolution Applicants is fixed as 05.09.2023.

25. Even though, there has been inordinate delay on the part of the COC in going ahead with the CIRP process and on the part of the RP in not filing the Liquidation application in time, keeping in view the object of IBC, 2016 and also in view of the fact that there are 3 PRAs who are willing to submit the Resolution Plan, this Tribunal by relying upon the decision of the Hon'ble Supreme Court in the matter of **Committee of Creditors of Essar Steels through Authorized Signatory Vs Sathish Kumar Gupta & Others** (2020) 8 SCC 531, extend the CIRP period in respect of the Corporate Debtor for a period of **30 days** from the date of this order, only for the



limited purpose of considering the Resolution Plan submitted by the Prospective Resolution Applicants.

26. 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 file appropriate application i.e. either for approval of Resolution Plan or for Liquidation of the Corporate Debtor, as the case may be, at the earliest.

27. The *Registry* of this Tribunal is directed to mark a copy of this order to IBBI for its information and records

28. With the above said directions IA(IBC)/1516/CHE/2023 and IA(IBC)/1519/CHE/2023 stands **disposed of**.

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond