THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH-I

I.A. 782 OF 2022

Under Section 60(5) of Insolvency & Bankruptcy Code, 2016 r/w Rule 11 of NCLT Rules 2016

Anish Niranjan Nanavaty
The Resolution Professional
…Applicant

In the matter of

C.P.(IB) No. 1387/MB/2017

Ericsson India Pvt Ltd

Financial Creditor

Vs.

Reliance communications Ltd.

Corporate Debtor

Order delivered on: 07.12.2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances

For the Applicant : Mr. Gaurav Joshi, Sr. Advocate a/w Mr. Rishabh Jaisani and Ms. Kriti Kalyani

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This IA 782/2022 is filed by Mr. Anish Ranjan Nanavaty, Resolution Professional (Applicant) of M/s Reliance Communications Limited ("Corporate Debtor") for seeking approval of this Tribunal to conduct the sale of following assets in accordance with the terms approved by CoC.

The details of assets of the Corporate Debtor which are proposed to be sold by way of auction ("Assets")

S. No.	Identified Asset	Description / Remarks
1	Chennai Haddow Office – Land and Building	G+7 building (with 2 more floors as basement) which houses the Chennai office of RCOM; land area of ~1.3 acres. 3 floors are being used by GIDC as IDC and 2 floors are being used by RCOM as circle office. 1 floor is used as canteen, 2 floors are vacant & basement is for parking.
2	Land Parcel in Ambattur, Chennai	~3.44 acres vacant industrial land. Currently used as an open warehouse.
3	Land Parcel in Pune	871.1 sq. mt.; land with only RCC structure frame of G+2 construction done.
4	Bhubaneswar Office – Office Space	6th floor owned by Reliance Communications Limited, area of 36,948 sq. ft. Currently used as circle office.
5	Investment - Shares of Campion Properties Limited	Campion Properties Limited owns Reliance Centre in Delhi (earlier Ranjit Hotel) spread over ~3.7 acres of land with c.1.6 lakh sq ft built up area located at prime location - Maharaja Ranjit Singh Marg, New Delhi; partly used as circle office.
6	Investment - Shares of Reliance Realty Limited	Reliance Realty Limited houses DAKC spread over ~132 acres of land in Navi Mumbai with development rights under Fintech policy; Also owns 7 buildings with c.3.9 lakh sq. ft built up area in Millennium Business Park, Navi Mumbai.

2. A resolution plan submitted for the Corporate Debtor by a resolution applicant has been approved by the COC pursuant to the meeting dated March 2, 2020, and in this regard, an application filed by the Applicant under Section 30(6) of the Code on March 6, 2020 is currently pending

consideration of this Tribunal, and the adjudication thereof is kept pending on account of the questions framed by the Supreme Court in judgement dated September 1, 2020 regarding the insolvency of telecom companies being at large initially before the Hon'ble NCLAT and now before the Hon'ble Supreme Court.

3. Accordingly, there is uncertainty in the timelines for completion of the CIRP of the Corporate Debtor. In view of the aforesaid as well as continued depreciation of certain unencumbered assets of the Corporate Debtor, such assets as set out above are proposed to be sold under Regulation 29 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations") to prevent accrual of burgeoning maintenance costs and statutory dues in respect of the Assets and ensure better realization of value for the Assets.

4. The said Assets are also proposed to be monetised under the provisions of the resolution plan. The conduct of the sale of Assets was deliberated and discussed in the meetings of the COC. Pursuant to the meeting of the CoC held on January 28, 2022, the Applicant had placed the agenda for conduct of sale of assets before the CoC for e-voting on February 3, 2022 which concluded on March 07, 2022, and which has been approved by the CoC with 74.31% of the voting shares of the members. The Resolution Applicant has also provided written consent for such conduct of sale process for the Assets.

5. While the resolution plan is pending approval by this Tribunal, the resolution professional, in terms of the proviso to sub-section (1) of Section 23 is empowered to continue to manage the operations of the corporate debtor after the expiry of the CIRP period, until an order approving the resolution plan under sub-section (1) of section 3 1 or appointing a liquidator under Section 34 is passed by this Tribunal. Accordingly, while the requirements under Regulation 29 of the CIRP

Regulations for undertaking the sale of the Assets are fulfilled, however, in view of the fact that the resolution plan is already approved by the CoC and is pending consideration with this Tribunal, this application has been preferred seeking the approval of this Tribunal to conduct the sale of the Assets in accordance with the terms as approved by the CoC. The proceeds of the sale of the Assets shall be utilised in accordance with the priority and manner under the approved resolution plan or liquidation, as applicable, treating the proceeds of sale as unencumbered assets of the Corporate Debtor in the same manner as the corresponding Assets.

6. We have heard the Learned Counsel and perused materials available on record.

7. We find that the CoC has approved the sale of assets described in Para 1 above, in view of uncertainty attached to the approval of plan and the Resolution Applicant has also given its consent to such sale. Further, the Applicant has asserted that the proceeds of such sale if permitted shall be distributed in accordance with the provisions of approved plan or Section 53 of the Code, as the case may be.

8. We have considered the submissions and find that the Resolution Plan filed before this Tribunal is pending for approval in view of issue pertaining spectrum being sub-judice before Hon'ble Supreme Court. Accordingly, in terms of Section 60(5), we hold that this Tribunal can pass an order on any question of priorities arising in relation to insolvency resolution of the Corporate Debtor under the Code. Hence, this Tribunal clarifies that the Applicant/RP can sell assets of the Corporate Debtor (as described in Para 1 above) under Regulation 29 of the CIRP Regulations after submission of the resolution plan for approval by this Tribunal. Further, this Tribunal accord its approval to the Applicant to conduct the sale of the Assets of the Corporate Debtor in terms of Regulation 29 of the CIRP Regulations, which sale proceeds

shall be treated as unencumbered assets of the Corporate Debtor and be distributed during implementation of the approved resolution plan or in liquidation, as the case may be.

9. In view of forgoing, the I.A. 782/2022 is allowed.

Sd/-	**Sd/-**
Prabhat Kumar	**Justice V.G. Bisht**
Member (Technical)	Member (Judicial)