

24

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

**IA/99/CHE/2021 in CP/64/IB/2018**

*(Under Sec. 60(5) of IBC, 2016 read with Regulation 44 of the IBBI  
(Liquidation Process) Regulations, 2016 read with Rule 11 of  
NCLT Rules, 2016)*

In the matter of **M/s. G.B. Engineering Enterprises Pvt. Ltd.**

Satyadevi Alamuri

Liquidator of M/s. G.B. Engineering Enterprises Pvt. Ltd.

D-99, Developed Plots Estate,

Thuvakudi, Trichy – 620 015

.. .. Applicant

*Order Pronounced on 15<sup>th</sup> July 2021*

CORAM

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

*For Applicant : S. Satish, Advocate*

**ORDER**

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

1. This is an Application which is filed by the Liquidator of M/s. G.B. Engineering Enterprises Pvt. Ltd. under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 44 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 seeking relief as follows;

- a. Exclude the period of 312 days (i.e. 25.03.2020 to 31.01.2021 being the period of lockdown imposed by the Central Government and State Government in the wake of Covid-19 outbreak from the period stipulated for completion of liquidation);
- b. Provide a further extension of 90 days from 01.02.2021 (i.e. 270 days when calculated from 05.08.2020) as per Regulation 44(2) of the IBBI (Liquidation Process) Regulations 2016, after excluding the Covid Lock down period
- c. To pass such other order / directions, as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case and thus render justice.

2. In an application filed under Section 10 of IBC, 2016, by Corporate Debtor viz. M/s. G.B. Engineering Enterprises Private Limited, this Tribunal vide its order dated 25.01.2018 passed in CP/64/IB/2018 had initiated the Corporate Insolvency Resolution Process against the Corporate Debtor and one Mr. Sundaram was appointed as the Interim Resolution Professional (IRP), and subsequently the Applicant herein was appointed as the Resolution Professional of the Corporate Debtor by this Tribunal vide order dated 27.03.2018.

3. Thereafter, it is seen that the Applicant herein has filed an Application before this Tribunal under Section 33(2) of IBC, 2016 seeking for Liquidation of the Corporate Debtor and this Tribunal in



MA/285/2018 vide its order dated 06.08.2018 has passed an order of Liquidation of the Corporate Debtor and appointed the Applicant herein as the Liquidator of the Corporate Debtor.

4. The Learned Counsel for the Applicant submitted that as a Liquidator she has taken all necessary steps to complete the Liquidation process within the prescribed time limits, unfortunately, for the reasons beyond the control of the Liquidator due to the Covid - 19 pandemic and attendant lockdown imposed by the Central / State Government, the Liquidator could not complete the process within the period of two years as stipulated under Regulation 44 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

5. The Learned Counsel for the Liquidator submitted that still there are assets belonging to the Company which are yet to be sold and more than 10 e-auctions were held in respect of a parcel of land and building belonging to the Corporate Debtor. Further, it was also submitted that most of the Plant and Machinery of the Corporate Debtor are sold and still there are some left to be sold and some buyers have evinced interest to purchase the same. It was also submitted by the Learned Counsel that the Liquidator has



filed MA/621/2019 against a Company seeking for return of materials to the Corporate Debtor which was given for a job work and also to make the payment for non – completion of Job including the cost of materials and the same is pending adjudication before this Tribunal.

6. The Learned Counsel for the Applicant submitted that as per the unamended Regulation 44 of the IBBI (Liquidation Process) Regulations, 2016 the Liquidation of the Corporate Debtor is required to be completed within a period of two years from 06.08.2018. However, it was submitted that due to the prevailing Covid – 19 pandemic coupled with attendant lockdown imposed by the Central / State Governments, the Applicant / Liquidator is unable to complete the Liquidation process of the Corporate Debtor within the time prescribed under the Regulations. The Learned Counsel for the Applicant also relied upon the Regulation 47A of the IBBI (Liquidation Process) Regulations, 2016 which states that the period of lockdown imposed by the Central Government in the wake of Covid – 19 pandemic shall be excluded. Further, the Applicant has also sought to extend the Liquidation for a further period of one year, in addition to the exclusion of the Lockdown period.



7. Heard the submission made by the Learned Counsel for the Applicant. 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 05.08.2020. 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. 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, as it stood at the time of passing the Liquidation order, 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 he is yet to sell the properties of the Corporate Debtor and complete the Liquidation process and the previous e-auctions conducted by the Liquidation yielded no successful buyer. Further, it is also stated that due to the prevailing Covid - 19 pandemic and the attendant lock down imposed by the Central / State Government, the Liquidator is unable to adhere to the timelines stipulated under the Code and hence there arises a necessity to continue with the Liquidation process of the Corporate Debtor.

10. It is also significant to note here that owing to Covid-19 pandemic and consequent lockdown imposed by the Central / State



Government time to time, the Regulator viz. Insolvency and Bankruptcy Board of India (IBBI) by way of an amendment inserted Regulation 47A in IBBI (Liquidation Process) Regulations, 2016, which states as follows;

**Exclusion of period of lockdown.**

47A. Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process.

11. 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 90 days and as such the Liquidation period of the Corporate Debtor is extended for a period of 90 (ninety) days from the date of this Order and the Liquidation process in relation to the Corporate Debtor is required to be completed on or before **14.10.2021**. 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 for the completion of the tasks remaining incomplete, 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.

12. Accordingly, IA/99/CHE/2021 stands **allowed**.

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

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

*Raymond*