

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA/652/IB/2020 in CP/1183/IB/2018
filed Rule 11 of National Company Law
Tribunal Rules, 2016.

In the matter of M/s. Aascar Film Private Limited

Mr. V. Ravichandran,
Suspended Director of
M/s. Aascar Film Private Limited
No. 36, 4th Street, Abiramapuram, Chennai-600018

---Applicant

Vs

Indian Overseas Bank
763, Anna Salai,
Chennai-600002

Mr. C. Ramasubramaniam
(Resolution Professional of
M/s. Aascar Film Private Limited)
"RAJI" 3B1, 3rd Floor, Gaiety Palace,
No. 1L-Blackers Road, Mount Road,
Chennai-600002.

---Respondents

SR No.824/2020 in CP/1183/IB/2018
filed Rule 11 of National Company Law
Tribunal Rules, 2016.

Mr. V. Ravichandran,
Suspended Director of
M/s. Aascar Film Private Limited
No. 36, 4th Street, Abiramapuram, Chennai-600018

---Applicant

Vs



COMMON ORDER

IA/652/IB/2020, SR No.824/2020 and
IA/552/IB/2020 in CP/1183/IB/2018

In the matter of M/s. Aascar Film Private Limited

Indian Overseas Bank

763, Anna Salai,
Chennai-600002

Mr. C. Ramasubramaniam

(Resolution Professional of
M/s. Aascar Film Private Limited)
"RAJI" 3B1, 3rd Floor, Gaiety Palace,
No. 1L-Blackers Road, Mount Road,
Chennai-600002.

---Respondents

IA/552/IB/2020 in CP/1183/IB/2018
filed under section 60(5) of the IBC, 2016
r/w Rule 11 of National Company Law
Tribunal Rules, 2016.

Mr. Madhan Kumar,

No. 32, Akshaya Colony. Mugappair West,
Padi, Chennai-600050

---Applicant

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

Presents:-

IA/652/IB/2020:-

Counsel for the Applicant : *Ms. Eshna Kumar, Advocate*

Counsel for the Respondent-1: *Shri. F.B Benjamin George, Advocate*

Counsel for the Respondent-2: *Shri. C. Ramasubramaniam, RP*

SR No.824/2020:-

Counsel for the Applicant : *Shri. M. Naraayanaswamy, Advocate*
Shri. P.J Sri Ganesh, Advocate

Counsel for the Respondent-1: *Shri. F.B Benjamin George, Advocate*

Counsel for the Respondent-2: *Shri. C. Ramasubramaniam, RP*

IA/552/IB/2020:-

Counsel for the Applicant : *Shri. Anando Mukherjee, Advocate*

COMMON ORDER

IA/652/IB/2020, SR No.824/2020 and

IA/552/IB/2020 in CP/1183/IB/2018

In the matter of M/s. Aascar Film Private Limited

COMMON ORDER

Per: R.SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 21.04.2021

The erstwhile Board of Directors of the Corporate Debtor have filed two applications IA/652/IB/2020 and SR.No.824/2020. These two applications were filed by the Erstwhile Board of Directors through two different Counsels and the reliefs sought in both the applications are one and the same. Hence the subsequent application (SR.No.824/2020) was not numbered in the Registry.

2. In respective of IA/652/IB/2020 filed by the erstwhile Board of Director of the Corporate Debtor Mr. V. Ravichandran, seeks relief as follows:

“The Corporate Debtor should be relieved from the rigors of the Code triggered on account of a stale and time barred debt and this Hon’ble Adjudicating Authority has absolute power to do so in the larger interest of justice”.

3. In respective of SR. No.824/2020 filed by the erstwhile Board of Director of the Corporate Debtor Mr. V. Ravichandran, seeking reliefs as follows:



- a) *To restore the status quo ante as it was prior to the order dated 19.09.2019 passed in C.P.No. 1183/IB/2018;*
- b) *To dissolve the CIRP initiated with respect to the Corporate Debtor – Aascar Films Private Limited and relieve the Corporate Debtor from the rigors of the IBC, 2016”.*

4. IA/552/IB/2020 is filed by one Mr. Madhan Kumar, seeking relief as follows:

- a) *Allow this instant Application and direct the Resolution Professional to accept the Expression of Interest of the Applicant;*
- b) *Pass appropriate orders directing the stay of operation of meeting of Committee of Creditors wherein decision, if any, had been taken towards liquidation of the Corporate Debtor”.*

5. The Applicant submits that invitation for Expression of Interest was published by the RP in the newspaper “Business Standard”, Chennai Edition dated 03.12.2019. The last date for submission of Expression of Interest was 18.12.2019. However, the Applicant could not submit the same. On 04.02.2020, the Applicant sent an email to the RP expressing his intention to submit its Expression of Interest.

6. The Applicant submits that the RP said that the Expression of Interest shall be placed before the CoC. Thereafter, no



communication from the RP. Hence, the Applicant moved an application under Section 60(5) of the IBC seeking direction to the Committee of Creditors to consider the Expression of Interest belatedly submitted by the Applicant.

7. IA/552/IB/2020 has been filed on 27.07.2020. In the 5th CoC meeting held on 17.03.2020, it was decided by the CoC to go for the liquidation. There are no asset or any property in the name of the Corporate Debtor other than the film related items.

8. SR No.824/2020 filed by the Applicant/erstwhile Board of Directors seeking for status quo ante, prior to the order dated 19.09.2019 in CP/1183/2018. In other words, the erstwhile Board of Directors is seeking for cancellation of the admission order passed by this Adjudicating Authority and revert the company back to the original status. Detailed arguments were submitted by both the parties and the judgements in support were also submitted by both the parties.



9. We have read and gone through the entire records filed by both the parties. This application is filed only for review of the order passed by this Adjudicating Authority on 19.09.2019; review of the order passed by this Adjudicating Authority which is beyond the scope of the IBC. Furthermore, if this Applicant was aggrieved by the order passed by this Adjudicating Authority, the Applicant/erstwhile Board of Directors should have gone for an appeal against the same before the Hon'ble NCLAT.

10. The Applicant/erstwhile Board of Director has filed an appeal against this order before the Hon'ble NCLAT and sought 10 days' time to settle the entire claim due and payable to the Financial Creditor. In spite of the time being sanctioned by the Hon'ble NCLAT, the Applicant/erstwhile Board of Directors has not settled the claim. Thereafter, the Applicant herein had also filed Civil Appeal No.2621 of 2020 before the Hon'ble Supreme Court of India. However, the same was withdrawn without any liberty.



11. There is no merit in the aforementioned relief sought for; the Respondent/Indian Overseas Bank has stated in their Counter that this relief in IA/652/IB/2020 is not maintainable, either in law or in facts. There is no power under Rule 11 of the NCLT Rules, 2016 to review the order.

12. Hence, a) IA/652/IB/2020 stands **dismissed** and b) SR.No.824/2020 is **closed**.

13. Since this IA/552/IB/2020 was filed belatedly, thereafter the CoC has also decided to go for liquidation, there is no merit in the application and also in view of the order of liquidation passed in IA/663/IB/2020, this IA/552/IB/2020 stands **dismissed**.

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

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

SR